

ORDINANCE NO. 4700

**AN ORDINANCE AMENDING THE CODE OF
ORDINANCES OF CITY OF PERU CHAPTER 50,
ARTICLE II CONCERNING NOISE**

WHEREAS, the City Council of the City of Peru, an Illinois home rule municipal corporation, (hereinafter "City") finds and determines that it is advisable and in the best interests of the City that Article II Noise of Chapter 50 of the Code of Ordinances be amended.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF PERU, LASALLE COUNTY, ILLINOIS, A HOME RULE MUNICIPALITY, AS
FOLLOWS:**

SECTION 1: Chapter 50, Article II , Noise of the Code of Ordinances of the City of Peru, Illinois, shall be, and is hereby, amended to read in its entirety as follows:

ARTICLE II. NOISE.

SECTION 50-26. PURPOSE.

This article is enacted to protect, preserve, and promote the health, safety, welfare, peace, and quiet of the citizens of the city through the reduction, control, and prevention of any noise that unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity. Nothing in this article shall be construed as preventing the lawful exercise of right of free speech protected by the Constitutions of the United States or the State of Illinois.

SECTION 50-27. SAVINGS.

A prosecution which is pending on the effective date of this article and which arose from a violation of an ordinance repealed by this article, or a prosecution which is started within six months after the effective date of this article, arising from a violation of an ordinance repealed by this article, shall be tried and determined exactly as if the ordinance had not been repealed.

SECTION 50-28. SCOPE.

This article applies to the control of all sound originating within the jurisdictional limits of the city.

SECTION 50-29. DEFINITIONS.

When used in this article:

Chronic nuisance premises means any premises that has generated three or more calls for police service for nuisance activities that have merit as determined within the sole discretion of the investigating officer. Such premises will have received more than the level of general and adequate police service and have placed an undue and inappropriate burden on the taxpayers of the city.

Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage demanding immediate attention.

Emergency works means any work performed for the purpose of preventing or alleviating physical trauma or property damage, whether actually caused or threatened by an emergency, or work by private or public utilities when restoring utility service.

Noise or sound level means the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network "A" as specified in the American Standards Institute specifications for sound level meters (ANSI S1.4-1971, or the latest approved revision thereof), using a sound level meter meeting ANSI standards for Type 1 or Type 2 sound level meters.

Nuisance means the making, creating, or causing to be made or continuation of any boisterous or unreasonably loud noise which causes, constitutes or tends to provoke a disturbance and which is detrimental to the public health, safety, welfare or peace.

Person means any individual, firm, association, partnership, joint venture, or corporation.

Public right-of-way means any street, avenue, boulevard, highway, sidewalk, alley, or similar place normally accessible to the public that is owned or controlled by a governmental entity.

Public space means any real property or structures on real property, owned by a governmental entity and normally accessible to the public, including but not limited to parks and other recreational areas.

Real property boundary means an imaginary line exterior to any structure, along the ground surface, which separates the real property owned by one person from that owned by another person, and the vertical extension of such line.

Receiving land means the property line of the real property where the sound is being heard, and where the appropriate level restrictions apply. In the case of an apartment, townhouse, or condominium, the point-of-measurement is within the affected unit.

Residential area means any real property which contains a structure or building in which one or more persons reside, provided that the structure or building is properly zoned, or is legally conforming, for residential use in accordance with the terms and maps of the city's zoning ordinance. Hospitals, nursing homes, schools, libraries, and church uses shall be considered residential uses.

SECTION 50-30. GENERAL PROHIBITION.

Residential Area:

- (a) Day Hours: No person shall cause or allow the emission of sound during daytime hours (7:00 A.M. to 10:00 P.M.) from any noise source to any receiving residential land which exceeds sixty five (65) dBA when measured at any point within such receiving resident land.
- (b) Night Hours: No person shall cause or allow the emission of sound during night time hours (10:00 P.M. to 7:00 A.M.) from any noise source to any receiving residential land which exceeds fifty five (55) dBA when measured at any point within such receiving residential land.

- (c) Unreasonable Disturbance/Commotion/Vibration: The unreasonable making of, or knowingly and unreasonably permitting to be made, any unreasonable loud, boisterous, or unusual noise, disturbance, commotion or vibration in any place of business or other structure, or upon any public street, park, or other place or building. The ordinary and usual sounds, noises, commotion or vibration incidental to the operation of these places when conducted in accordance with the usual standards of practice and in a manner which will not unreasonably disturb the peace, or which will not detrimentally affect the operators of other places of business or residents living in residential units are exempted from this provision.

Non-Residential Area:

- (a) Unreasonable Disturbance/Commotion/Vibration: The unreasonable making of, or knowingly and unreasonably permitting to be made, any unreasonably loud, boisterous or unusual disturbance, commotion or vibration in any place of business or other structure, or upon any public street, park, or other place or building. The ordinary and usual sounds, noises, commotion or vibration incidental to the operation of these places when conducted in accordance with the usual standards of practice and in a manner which will not unreasonably disturb the peace, or which will not detrimentally affect the operators of other places of business are exempted from this provision.
- (b) Factors for determining whether a sound is unreasonably loud and raucous include, but are not limited to, the following:
 - (1) The proximity of the sound to sleeping facilities, whether residential or commercial;
 - (2) The land use, nature, and zoning of the area from which the sound emanates and the area where it is received or perceived;
 - (3) The time of day or night the sound occurs;
 - (4) The duration of the sound; and
 - (5) Whether the sound is recurrent, intermittent, or constant.

SECTION 50-31. NOISES PROHIBITED.

The following acts are declared to be per se violations of this article when the sound levels exceed the limits listed in Section 50-30. This list does not constitute an exclusive list:

- (1) Signaling devices. Sounding or permitting sounding any amplified signal from any bell, chime, siren, horn, whistle or similar device, intended primarily for non-emergency purposes from any place for more than ten consecutive seconds in any hourly period. The reasonable sounding of such devices by houses of religious worship, seasonal contribution solicitors, or by the city for traffic control purposes are exempt from the operation of this provision.
- (2) Emergency signaling devices. The intentional sounding or permitting the sounding outdoors of any emergency signaling device including fire, burglar, civil defense alarm, siren, horn, whistle, or similar emergency signaling device, except in an emergency or except as provided in subsection a. below. Local, state, and federal governments are exempt from this prohibition.
 - a. Testing of an emergency signaling device shall occur between 7:00 a.m. and 7:00 p.m. Any testing shall use only the minimum cycle test time. In no case shall such test time exceed five minutes. Testing of the emergency signaling system shall not occur more than once in each calendar month.
- (3) Construction or repair of buildings, excavation of streets and highways: the construction, demolition, alteration or repair of any building or the excavation of street and highways other than between the hours of 7:00 a.m. and 10:00 p.m. Local, state, and federal governments are exempt from this prohibition. In cases of emergency, construction or repair noises are exempt from this provision. In non-emergency situations, the following shall apply:
 - (a) If the Superintendent of Public Works determines that the general public will not be unreasonably disturbed by the erection, demolition, alteration or repair of any public improvement outside the above stated hours, the Superintendent of Public Works may issue written permission to conduct construction or repair of buildings between the hours of 10:00 p.m. and 7:00 a.m. of the following day. The written permission shall grant permission in non-emergency

cases for a period of not more than seven days. The permit may be renewed at the discretion of the Superintendent of Public Works.

- (b) If the Superintendent of Public Works should determine that the general public will not be unreasonably disturbed by the construction or excavation of roadways and sidewalks between the hours of 10:00 p.m. and 7:00 a.m. of the following day, the Superintendent of Public Works may issue written permission upon application. The written permission shall grant permission in non-emergency cases for a period of not more than seven days. The permit may be renewed at the discretion of the Superintendent of Public Works.

- (4) Jake Brake. Any mechanical exhaust device designed to aid in the braking or deceleration of any vehicle by converting engine power to compressed air, causing a loud, unusual or explosive noise from such vehicle; and the use of such devices disturbs the public within an area where such sound is audible. It shall be an affirmative defense that the person operating, or causing to be used or operated such mechanical exhaust device in circumstances where it was necessary to avoid injury or an accident.

SECTION 50-32. EXEMPTIONS.

Sounds caused by the following are exempt from the prohibitions of this Article and are in addition to the exemptions specifically set forth in this Article.

- (1) Repairs to utility structures.
- (2) Sirens, whistles, or bells lawfully used by emergency vehicles, or other alarm systems used in case of fire, collision, civil defense, police activity, or imminent danger.
- (3) Repairs or excavations of bridges, streets, highways, or other infrastructure by or on behalf of the city, the State of Illinois, or the federal government, when public welfare and convenience renders it impractical to perform the work between 7:00 a.m. and 10:00 p.m., provided, the city has been adequately notified.

- (4) Outdoor school and playground activities. Reasonable activities conducted on public playgrounds or public or private school grounds, which are conducted in accordance with the manner in which such spaces are generally used, including but not limited to, school athletic and school entertainment events.
- (5) Other outdoor events. Outdoor gatherings, public dances, shows, parades, festivals, and other similar outdoor events, provided that permission has been authorized by the Superintendent of Public Works.
- (6) Powered Equipment. Powered equipment, such as lawn mowers, small lawn and garden tools, riding tractors, and snow removal equipment which are necessary for the maintenance of property when such tools are properly maintained and operated in a manner that is normal and customary.
- (7) Any event that is sponsored by and directly controlled by the city or its designee.
- (8) Outdoor church activities that cannot be heard from a distance of more than 100 feet beyond the church property boundaries between 10:00 p.m. and 7:00 a.m. of the following day, except that a church may sound chapel bells periodically so long as each said ringing does not continue for an unreasonable amount of time.
- (9) Aircraft operated in conformity with, or pursuant to, federal law and regulations and any aircraft operating under technical difficulties or in any kind of distress.
- (10) Emergency related sounds - any type of sound rendered on an intermittent, emergency basis, including but not limited to, sounds associated with snow removal, emergency generators associated with power outages, flood water removal, and/or storm debris removal, as well as other emergency warning sounds.
- (11) Noises required by law: The provisions of this section shall not apply to any noise required specifically by law for the protection or safety of people or property.

SECTION 50-33. ENFORCEMENT.

- (a) The chief of police, or his designee, will have primary responsibility for the enforcement of the noise regulations herein. Nothing in this article shall prevent the police chief, or his designee, from obtaining voluntary compliance by way of warning notice, or education.
- (b) If a person's conduct would otherwise violate this article and consists of any of the following: 1) speech or communication protected by the Constitution of the United States or the State of Illinois; 2) of a gathering with others to hear or observe speech or communication protected by the Constitution of the United States or the State of Illinois; 3) or of a gathering with others to lawfully picket or otherwise express, in a non-violent manner, a position on a social, economic, political, or religious questions, then the person must be ordered to, and have the opportunity to, move, disperse, or otherwise remedy the violation prior to arrest or a citation being issued.

SECTION 50-34. PENALTIES.

- (a) Any person, firm, association, partnership, joint venture, or corporation violating any provision of this article shall be fined not less than \$100.00 nor more than \$500.00 for each offense.
- (b) A subsequent violation of this article by the same person, firm, association, partnership, joint venture, or corporation, which occurred within 30 days of receiving a previous ticket, is punishable by a fine of no less than \$500.00.
- (c) Each occurrence of a violation of this article constitutes a separate offense and may be punished separately.

SECTION 50-35. NUISANCE DECLARED.

- (a) Any person, firm, association, partnership, joint venture, or corporation in violation of this article or state law is hereby declared to be a public nuisance.
- (b) In addition to any other relief provided by this article, the corporation counsel may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this article. Such application for relief may include seeking a temporary

restraining order, preliminary injunction and permanent injunction. The city shall be awarded against the offending party all reasonable attorney's fees and costs incurred as a result of enforcement of this ordinance.

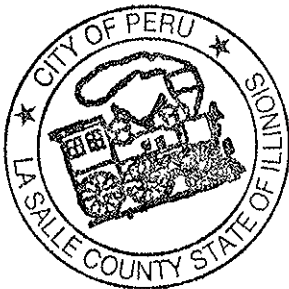
- (c) Any nuisance under this section may be abated by a proper action in any court of competent jurisdiction.

SECTION 50-36. SEVERABILITY.

A determination of the invalidity or unconstitutionality of any clause, sentence, paragraph, section, or part of this article, by a court of competent jurisdiction, shall not affect the validity of the remaining parts of this article which shall remain in full force and effect.

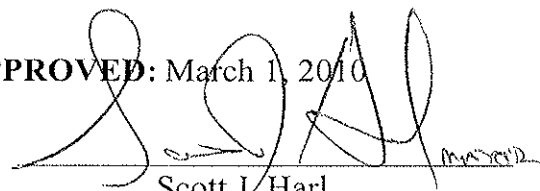
SECTION 2: Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval, and publication according to law. This Ordinance shall be published in the Code of Ordinances, City of Peru, Illinois.

PRESENTED, PASSED, AND ADOPTED at a regular meeting of the City Council of the City of Peru, Illinois, by an aye and nay roll call vote, with 8 voting aye, 0 voting nay, 0 absent, and Mayor Harl not voting, which meeting was held on the 1st day of March, 2010.

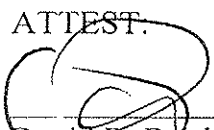


(CORPORATE SEAL)

APPROVED: March 1, 2010


Scott J. Harl
Mayor

ATTEST.


David R. Bartley
Peru City Clerk

<u>Aldermen</u>	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>	<u>Abstain</u>
Ferrari	X			
Mikyska	X			
Ankiewicz	X			
Wren	X			
Mertel	X			
O'Beirne	X			
Waldorf	X			
Potthoff	X			

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