

Chapter 14

OFFENSES AND MISCELLANEOUS PROVISIONS

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ARTICLE I. IN GENERAL

Section 14.1 **Discharge of Firearms.**

- a. It shall be unlawful for any person to fire or discharge a firearm within the city.
- b. The provisions of subsection (a) of this section shall not apply to:
 - 1. Persons who fire or discharge a firearm in defense of person or property; or
 - 2. Law enforcement officers or members of the National Guard or armed forces of the United States, when such persons are engaged in the performance of their official duties.

c. Notwithstanding anything contained in this Section, the Chief of Police may grant a temporary permit to discharge firearms in the city for the purpose of shooting squirrels, armadillos, and other nuisance animals. The Chief of Police shall establish rules, regulations and criteria for the issuance of permits under this provision that will protect the health, safety and welfare of the citizens of the City.

Section 14.2 **Obstruction of Streets, Sidewalks, Similar Locations.**

No person shall obstruct streets, sidewalks, alleys, lanes, public squares, or drains, gutters or ditches.

Section 14.3 **Peddlers and Itinerant Merchants.**

It shall be unlawful for any peddler or itinerant merchant to engage in the business of peddling or selling on the streets of the City of Barwick during the period of time between half an hour after sunset and sunrise.

Section 14.4 **Unauthorized Use of Fire Hydrants.**

No person shall open a city fire hydrant valve or draw water from such a fire hydrant without permission from the city. Firefighters and other city employees are exempt from this section provided they do so as part of their official duties as firefighters or employees.

Section 14.5 **Removing Material from Thoroughfares.**

It shall be unlawful for any person to dig, scrape up or carry away sand, gravel, dirt, rock or earth from any public way of the city.

Sections 14.6 - 14.10 **Reserved.**

ARTICLE II. LOITERING

Section 14.11 **Prohibited.**

a. It shall be unlawful for any person, after first being warned by a police officer, to be in a place at a time or in a manner not usual for law-abiding individuals under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity.

b. Among the circumstances which may be considered in determining whether alarm is warranted is the fact that the person takes flight upon the appearance of a law enforcement officer, refuses to identify himself, or manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstances make it impracticable, a law enforcement officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm or immediate concern which would otherwise be warranted by requesting the person to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this section if the law enforcement officer failed to comply with the foregoing procedure or if it appears at trial that the explanation given by the person was true and would have dispelled the alarm or immediate concern.

c. As provided by the City of Barwick Code of Ordinances, violation of this ordinance shall subject an individual to a fine not to exceed \$1,000 or imprisonment not to exceed six months, or both.

Sections 14.12 - 14.20 **Reserved.**

ARTICLE III. NOISE

Section 14.21 **Excessive, Unnecessary, and Unusually Loud Noise.**

It shall be unlawful for any person to make, continue, or cause to be made or continued any excessive, unnecessary, or unusually loud noise or any noise which either annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others within the limits of the city. The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this article, but said enumeration shall not be deemed to be exclusive, namely:

a. *Horns, signaling devices, etc.* The sounding of any horn or signaling device on any automobile, motorcycle, street car, or other vehicle on any street or public place of the city, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time. The use of any signaling device except 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 for any reason held up.

b. *Radios, phonographs, etc.* The using, operating, or permitting to be played, used, or operated any radio receiving 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 or person who are in the room, vehicle, or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine, or device between the hours of 6:00 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.

c. *Loud speakers, amplifiers for advertising.* The using, operating, or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is case upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.

d. *Yelling, shouting, etc.* Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 6:00 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 persons in any office or in any dwelling, hotel, or other type of residence, or of any persons in the vicinity.

e. *Animals, birds, etc.* The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity.

f. *Steam whistles.* The blowing of any locomotive steam whistle or steam whistle

attached to any stationary boiler 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.

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

h. *Defect in vehicle or load.* The use of any automobile, motorcycle, or vehicle so out of repair, so loaded, or in such other manner as to create loud and unnecessary grating, grinding, rattling, or other noise.

i. *Loading, unloading, opening boxes.* The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers.

j. *Construction or repairing of buildings.* The erection (including excavation), demolition, alteration, or repair of any building other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, except in case of an urgent necessity in the interest of public health and safety, and then only with a permit from the 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 for periods of three days or less while the emergency continues. If the building inspector should determine 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 within the hours of 6:00 p.m. and 7:00 a.m., and if he shall further determine that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of 6:00 p.m. and 7:00 a.m., upon application being made at the time the permit for the work is awarded or during the progress of the work.

k. *Schools, courts, churches, hospitals.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church, court while the same are in use, or adjacent to any hospital, which unreasonable interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital, or court street.

l. *Hawkers, peddlers.* The shouting and crying of peddlers, hawkers, and vendors which disturbs the peace and quiet of the neighborhood.

m. *Drums.* The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.

n. *Metal rails, pillars, and columns, transportation thereof.* The transportation of rails, pillars, or columns of iron, steel, or other material, over and along streets and other public places upon carts, trays, 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.

o. *Street railway cars, operation thereof.* The causing, permitting, or continuing any excessive, unnecessary, and avoidable noise in the operation of a street railway car.

p. *Pile drivers, hammers, etc.* The operation between the hours of 10:00 p.m. and 7:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or other appliance, the use of which is attended by loud or unusual noise.

q. *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.

Section 14.22 **Application for Special Permit.**

Applications for a permit for relief from the noise level designated in this article on the basis of undue hardship may be made to the city council. Any permit granted by the city council hereunder shall contain all conditions upon which said permit has been granted and shall specify a reasonable time that the permit shall be effective. The city council may grant the relief as applied for if they find:

a. That additional time is necessary for the applicant to alter or modify his activity or operation to comply with this article; or

b. The activity, operation, or noise source will be of temporary duration, and cannot be done in a manner that would comply with other subsections of this section; and

c. That no other reasonable alternative is available to the applicant; and

d. The city council may prescribe any conditions or requirements they deem necessary to minimize the adverse effects upon the community or the surrounding neighborhood.

Section 14.23 **Violation, a Misdemeanor.**

Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed \$1,000.00 or imprisoned in the city jail for up to 180 days, or shall be punished by both such fine and such imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as provided hereunder.

Sections 14.24 - 14.30 **Reserved.**

ARTICLE IV. CURFEWS

Section 14.31 **Juvenile Curfew Authorized.**

a. It is unlawful for any person under the age of 18 or younger to loiter, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places, public buildings, places of amusement, eating places, vacant lots or any place unsupervised by an adult having the lawful authority to be at such places, between the hours of 11:00 p.m. on any day and 6:00 a.m. of the following day; however, on Fridays and Saturdays the effective hours are between 12:00 midnight and 6:00 a.m. of the following day. The provisions of this section shall not apply in the following instances:

1. When a minor is accompanied by his parent, guardian or other adult person having the lawful care and custody of the minor;
2. When the minor is upon an emergency errand directed by his parent or guardian or other adult person having the lawful care and custody of such minor;
3. When the minor is returning directly home from a school activity or entertainment, school-sponsored or school-related sports event, recreational activity or dance;
4. When the minor is returning directly home from lawful employment that makes it necessary to be in the above-referenced places during the proscribed period of time.
5. When the minor is attending or traveling directly to or from an activity involving the exercise of First Amendment rights of free speech, freedom of assembly or free exercise of religion;
6. When the minor is in a motor vehicle with parental consent for normal travel, with travel through the city expected in all cases from the curfew.

Any acts made unlawful by the provisions of this section shall be subject to the juvenile code of this state.

b. It shall be unlawful for the parent, guardian or other person having custody or control of any child under the age of 18 or younger to permit, or by insufficient control, to allow such child to be in or upon the public streets or any other places listed in subsection (a) of this section within the city between the hours of 11:00 p.m. on any day and 6:00 a.m. of the following day, or on Fridays and Saturdays between the hours of 12:00 midnight and 6:00 a.m. of the following day, except in circumstances set out in subsection (a). Upon conviction of violation of this section for the first time, a person shall be given a warning citation. Upon further convictions,

a person shall be subject to such punishment as the municipal court may impose, subject to all limitations contained in the Charter of the city. Each violation of this section shall constitute a separate offense.

c. The chief of police shall be required to submit a quarterly report for up to one year after the effective date of the ordinance from which this section derives to the city council to monitor the continuing need and effectiveness of this section.

Section 14.32 **City Parks.**

There shall be a curfew observed in city parks from 10:00 p.m. until 6:00 a.m. during which time the parks shall not be open for public use unless authorized by the Mayor. This curfew shall not apply to any event carried out or sanctioned by the city or authorized by the Mayor. Provided however, no minor under the age of 13 shall be permitted in any public park after sunset unless accompanied and supervised by his or her parent, guardian, or other person having custody or control of the child.

Section 14.33 **Definition.**

For the purpose of this article, the following definitions shall apply: “public place” shall mean any street, highway, alley, or right-of-way, to include sidewalks, any park, playground, mall or other place or building open to the public; any cemetery, school yard, body of water or watercourse, any privately or publicly owned place of amusement, entertainment, or public accommodation including parking lots, and other areas adjacent thereto; and any vacant lot or land.

Section 14.34 **Control of Minor.**

It shall be unlawful for the parent, guardian, or other person having custody or control of any child under the age of 18 years to permit or, by insufficient control, to allow such child to be in or upon the public streets or any other places listed in section 14-31 above within the city between the hours of 11:00 p.m. on any day and 6:00 a.m. the following day, or on Fridays and Saturdays between the hours of 12:00 midnight and 6:00 a.m. the following day except in circumstances set out in subsections (1) through (5) of section 14-31 hereof. A person charged with violation of this section for the first time shall be given a warning citation. Upon subsequent violation, the person shall be charged with such violation and, if found guilty, such person shall be subject to punishment as provided in the Code of Ordinances of the City of Barwick, Georgia.

Sections 14.35 - 14.40 **Reserved.**

ARTICLE V. DISORDERLY CONDUCT

Section 14.41 Disorderly Conduct Enumerated.

Any person committing one or more of the following acts within the corporate limits of the city shall be guilty of disorderly conduct:

1. Fighting or quarreling in such a manner and in such place as to annoy or disturb the peace, quiet, comfort, or repose of persons in any office or any dwelling, hotel, or other type residence, or of any persons in the vicinity.
2. Using any indecent, vulgar, obscene, threatening, or abusive language in or near a public place which has a direct tendency to cause acts of violence by the person to whom or of whom the remarks are addressed.
3. Yelling, shouting, singing, chanting, or making any other loud noise by any means whatsoever, whether by voice, handclapping, stomping, or by mechanical means, on the public streets or other public property or in proximity thereto in such manner and to such extent as to annoy or disturb the peace, quiet, comfort, or repose of persons in any office or in any dwelling, hotel, or other type of residence, or of any persons in the vicinity.
4. Striking or attempting to strike another.

Section 14.42 Disorderly Intoxication Enumerated.

It shall be unlawful for any person to be disorderly while intoxicated on the streets, sidewalks, or other public places within the corporate limits of the city. The following are declared to be guilty of violating this section:

1. Any person who while under the influence of alcohol or drugs accost or forces his company upon another person.
2. Any person who while under the influence of alcohol or other drugs shall defecate or urinate on the streets or sidewalks, or in the halls or elevators of public or commercial buildings, or on any property open to public view in the city.
3. Any person who while under the influence of alcohol or other drugs shall act in a violent or tumultuous manner toward another so as to endanger the life, limb, health, or property of another;
4. Any person who while under the influence of alcohol or other drugs shall be loud or boisterous or use profane language or panhandle and who shall

refuse to remove himself from the public street, sidewalks, any other public way or house of commerce or worship, or public conveyances, public halls, theaters, or other public places, when ordered to do so by the police or other lawful authority.

Upon finding of guilt for violation of this section, the offender shall be subject to imprisonment for a term not to exceed six months or a fine not to exceed \$1,000.00, or both, any of the penalties to be in the discretion of the judge. Such punishment may be probated by the magistrate for those offenders desiring to participate in a detoxification or drug rehabilitation program.

Any police or other law enforcement officer, in lieu of incarcerating an intoxicated person for a violation of subsection (3) hereof, may take or send the individual under the influence of alcohol or drugs to such person's home or to a treatment facility. Any such officer so acting shall be deemed to have performed his official duty. Such officer need not formally render charges against the individual prior to taking or sending him to a treatment facility.

Section 14.43 **Law Enforcement Acting in Official Capacity.**

Any police officer or other law enforcement officer who acts in compliance with this article is hereby declared to be acting in the course of official duty and is not criminally or civilly liable to any person therefor.

Section 14.44 **Intoxication Not Justification for Other Crimes.**

Nothing in this article shall be deemed to excuse or justify any other crime simply because the perpetrator is intoxicated. Nothing in this article shall repeal, annul, or otherwise affect any law, ordinance, resolution, or rule against drunken driving, driving under the influence of alcohol, or other similar offense involving the operation of a vehicle, aircraft, boat, machinery, or other equipment, or regarding the sale, purchase, dispensing, possessing, or use of alcoholic beverages at stated times and places or by a particular class of persons or any other criminal act.

Sections 14.45 - 14.50 **Reserved.**