

STATE OF ALABAMA

MADISON COUNTY

RESOLUTION OF THE MADISON COUNTY COMMISSION

WHEREAS, Act No. 2018-167 (the “Act”) was adopted by the Alabama Legislature during the 2018 Regular Session and authorized an election regarding a proposed amendment to the Constitution of Alabama of 1901 to authorize the Madison County Commission to regulate noise in the unincorporated areas of Madison County; and

WHEREAS, on November 6, 2018, the Constitutional Amendment proposed by the Act was approved by the voters of Madison County, Alabama (“Madison County”); and

WHEREAS, it is appropriate that the Commission, pursuant to the provisions of the Act and the Constitutional Amendment adopted pursuant thereto, and other applicable provisions of law and authority, to adopt regulations and requirements to limit noise levels and to regulate public nuisances caused by noise levels in order to minimize the exposure of its citizens to the physiological and psychological dangers of excessive noise; and

WHEREAS, the following provisions are adopted to protect, preserve and promote the health, safety, welfare, peace and quiet of the citizens of Madison County through the reduction, control and prevention of unreasonably excessive noises which are physically harmful or otherwise detrimental to the public health, comfort, convenience, safety, welfare, prosperity and peace of Madison County and its citizens.

NOW, THEREFORE, BE IT RESOLVED BY THE MADISON COUNTY COMMISSION that the Madison County Commission (the “Commission”) does hereby adopt the following regulations and requirements and procedures to regulate noise in the unincorporated areas of Madison County:

- I. Title. This Resolution shall be cited as the “Madison County Noise Ordinance.”
- II. Jurisdiction. The Madison County Noise Ordinance (“the Noise Ordinance”) shall apply to all unincorporated areas of Madison County.
- III. Loud and Disturbing Noise Prohibited.
 - A. Subject to the provisions of this section, it is prohibited in Madison County to create, cause or allow the continuance of any unreasonably loud, disturbing noise. Noise of such character, intensity and duration as to be detrimental to the health, safety or welfare of any reasonable person of ordinary firmness and sensibilities in the vicinity of the noise is prohibited. For the purposes of this Ordinance, the following definitions shall apply:
 1. “Construction activities” shall mean any and all activity incidental to the construction, erection, demolition, assembling, altering, installing or equipping of buildings, structures, roads or appurtenances thereto, including land clearing, grading, excavating and filling.
 2. “Construction equipment” shall mean construction equipment or devices such as, but not limited to, pile drivers, power shovels, derricks, hoist tractors, loaders, rollers, concrete hauling motor vehicles, pavement breakers, bulldozers, crawler-tractors, rotatory drills and augers, cranes, ditchers, trenchers, scrapers, wagons, pumps, compressors, pneumatic power equipment, or other

mechanical apparatus operated by fuel or electric power in the construction, repair or demolition of any building, structure, land, street, alley, waterways or appurtenance thereto.

3. “db(A)” shall mean a measure of sound pressure level in decibels on the A-weighted scale.

4. “Decibel meter” shall mean an instrument to measure decibels which meets or exceeds American National Standards Institute (ANSI) section 1.4 type 2 or IEC61672 class 2.

5. “Device” shall mean any mechanism which is intended to produce, or which actually produces, sound when operated or handled.

6. “Disturbing” shall mean noise which is perceived by a reasonable person of ordinary firmness and sensibilities as interrupting the normal peace and calm of the area.

7. “Domestic power equipment” shall mean any equipment or device used for routine home or building repairs or grounds maintenance, including lawn mowers, pool pumps, sanding tools, snow removal equipment, chainsaws or any other power equipment used for home or grounds maintenance.

8. “Noise” shall mean any sound which exceeds the prescribed decibel levels at a time and location described herein.

9. “Person” shall mean and include any individual, corporation, association, partnership or limited partnership.

10. “Property line” shall mean the boundary line distinguishing ownership or the common wall of a townhouse, condominium or leased premises.

11. “Sound” shall mean that which is or can be heard, or particularly a temporal and spatial oscillation in pressure, or other physical quality, in a medium with internal forces that cause compression and rarefaction of that medium and which propagates at finite speed to distant points.

12. “Sound-amplifying equipment” shall mean any machine or device for the amplification of the human voice, music or any other sound or noise.

13. “Unreasonably loud” shall mean noise which is substantially incompatible with the time and location where created to the extent that it creates an actual or imminent interference with peace and good order.

B. In determining whether a noise is unreasonably loud and disturbing, the following factors incident to such noise are to be considered:

1. Time of day;
2. Proximity to residential structures;
3. Whether the noise is recurrent, intermittent or constant;
4. The volume and intensity of the noise;

5. Whether the noise has been enhanced in volume or range by any type of mechanical means;

6. Whether the noise is related to the normal operation of a business or other activity or is the result of some use for individual purposes; and

7. Whether the noise is subject to being controlled with minimal or reasonable effort or expense to the creator of the noise.

C. The following acts are declared to be unreasonably loud and disturbing in violation of the Noise Ordinance if such acts annoy or disturb the quiet, comfort or repose of any reasonable person of ordinary firmness and sensibilities in the vicinity or area where created, caused, or continued, but this enumeration shall not be deemed to be exclusive.

1. The use of any loud, boisterous or raucous language, yelling, or shouting, whether or not amplified.

2. The congregation of persons at and participation in any party or gathering of people from which noise emanates of a sufficient volume or of such nature as to disturb the peace, quiet and comfort of any reasonable person of ordinary firmness and sensibilities in the vicinity.

3. The keeping, owning, possessing, harboring or controlling of any animal which barks, bays, yelps, howls, cries, squawks or makes any other unreasonably loud, disturbing noise continuously or incessantly for a period of 10 minutes or intermittently for a period of 30 minutes or more, thereby causing a noise disturbance.

4. The playing of any device, radio, television, phonograph, drum, musical instrument, or sound production, reproduction or amplification equipment in such manner or with such volume, particularly during the hours between 11:00 p.m. and 7:00 a.m., so as to annoy or disturb the peace, quiet, comfort or repose of any reasonable person of ordinary firmness and sensibilities in the vicinity.

5. The playing of any radio, compact disc, or other similar device for production or reproduction of sound located in or on any motor vehicle on a public street, highway, within a public vehicular area, within the motor vehicular area of any public or private parking lot or park or on the premises of a private residence in any unreasonably loud or disturbing manner as defined above.

6. The intentional sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle except as a danger signal or as required by law, so as to create any unreasonably loud or disturbing noise as defined above, or the sounding of such a device for an unnecessary period of time and/or the sounding of such a device for an unreasonable period of time.

7. The operation of any automobile, motorcycle or other vehicle, or remote-control vehicle in such a manner as to create loud, grating, grinding, rattling, screeching, or other unreasonably loud or disturbing noise.

8. The repair, rebuilding or testing of any motor vehicle, particularly during the hours between 11:00 p.m. and 7:00 a.m., which creates unreasonably loud and disturbing noises.

9. Operating or permitting the operation of any motor vehicle or motorcycle not equipped with a muffler or other device in good working order so as to effectively prevent loud or

explosive noises therefrom or which has its muffler-exhaust or other noise control equipment removed, altered or maintained in such disrepair as to create unreasonably loud and disturbing noises.

10. Operating or permitting the operation of any motor vehicle or motorcycle that engages in jackrabbit starts, spinning tires, racing engines or other operations which create unreasonably loud and disturbing noises.

11. The creation of any excessive noise on any street adjacent to any school, institution of learning, library or sanitarium, or court while the same is in session, or adjacent to any hospital or any church during services, which unreasonably interferes with the working of such institution.

12. The firing, shooting or discharging of any firearm for the sole purpose of making noise or disturbance.

13. Use or operation of any device, radio, musical instrument, television, phonograph, drum, sound-amplifying equipment or other device which produces or reproduces sound either stationary or mobile, in such a manner so as to create any noise which exceeds 85 db(A) during the hours of 7:00 a.m. until 11:00 p.m. or which exceeds 75 db(A) from 11:00 p.m. until 7:00 a.m. at any property line or upon any public street or right-of-way in Madison County.

14. Making or causing any noise which disturbs the peace or quiet and which exceeds 85 db(A) during the hours of 7:00 a.m. until 11:00 p.m. or which exceeds 75 db(A) from 11:00 p.m. until 7:00 a.m. at any property line or upon any public street or right-of-way in Madison County.

IV. Exceptions.

A. The following uses and activities, among others, are not governed by and shall be exempt from the Ordinance. It is expressly provided, however, that the following enumeration shall not be deemed or considered exclusive.

1. Noise or sound made in the performance of public service by governmental agencies or their contractors; or emergency work engaged in by persons for the public safety, health or welfare; or to restore property to a safe condition following a public emergency; or work to restore essential public services, including construction activities directly related to the abatement of any emergency.

2. Noise made by air traffic at the Huntsville International Airport, air traffic at the Huntsville Executive Airport, parades, cultural events, athletic events, state or county fairs or functions conducted pursuant to a permit approved by the County Administrator. Issuance of a business license shall not constitute approval of or authorization within the meaning of this section.

3. Noise made by a siren, whistle, horn or bell used by emergency vehicles or civil defense or used by motor vehicles, trains and boats as warning devices to avoid collisions.

4. Noise made by burglar alarms or security devices; provided, however, no burglar alarm or security device shall sound for more than fifteen minutes after being activated.

5. Noise made by dogs while they are being lawfully used for hunting or taking wildlife.

6. Noise associated with any legal operations of any legally established firearms club or association.

7. Noise caused by the discharge of firearms by law enforcement officers in the performance of their official duties or during the course of official firearms training.

8. Noise resulting from farming or agricultural operations, including but not limited to noises generated by machinery, equipment and farm animals.

9. Noise associated with any event held in recognition of a community celebration of national, state or county events or public festivals.

10. Noise associated with any public or private school activity or camp activity (defined as any function or activity approved by or generally associated with any recognized public or private camp for children accredited by an appropriate national camp association, but not including activities associated with campgrounds available to the public for overnight camping), except that it shall be unlawful for any person to use any unreasonably loud, disturbing, boisterous, raucous language or shouting in violent or offensive manner while attending such activities.

11. Noise associated with the chimes or bells of businesses, schools, camps or religious institutions, provided that they operate for no more than 10 minutes in any hour.

12. Non-amplified crowd noise resulting from activities by student, government, camp or community groups.

13. Noise associated with or resulting from operations of any commercial, industrial or agricultural activities or operations, including construction activities or operation of construction equipment if the construction activities or operation of construction equipment occurs between the hours of 7:00 a.m. and 9:00 p.m.

14. Noise associated with or resulting from use or operation of any domestic power equipment between the hours of 7:00 a.m. and 9:00 p.m.

15. Noise associated with the use of consumer fireworks.

B. If any exceptions stated in this chapter would limit obligation, limit liability or eliminate either an obligation or a liability, the person who would benefit from the application of the exception shall have the burden of proving that the exception applies and that the terms of the exception have been met.

V. Permit.

A. Required. It shall be unlawful for any individual or organization to make or create or to ask or pay another to make or create any noise that is raucous, jarring, disturbing, unreasonably loud or a nuisance to a reasonable person in the vicinity or that would otherwise be a violation of the Noise Ordinance, without first obtaining a permit in accordance with the procedures set forth in this section.

B. Application.

1. Required. An individual or organization seeking a noise permit shall file an application with the County Administrator on a form provided by the County Administrator's Office.

2. Time for Filing. An application for a noise permit must be submitted to the County Administrator at least 15 business days before the first day of the date or dates for which the permit is sought. Applications received less than 15 business days before shall not be considered unless the applicant can show good cause for failing to file the application in a timely manner.

3. Contents. The application for a noise permit shall contain the following information:

a. The name, address and telephone number of the person completing the application. If the individual is completing the application on behalf of an organization, the name, address and phone number of the organization as well as the name address and telephone number of the owner, manager or chairperson of the organization;

b. The name, address and telephone number of the individual or organization that will actually create the noise;

c. A description of the noise that will occur, including whether the source of the noise will be live or mechanical;

d. The reason why the noise will be made;

e. The proposed date, time and length of the noise;

f. A street address and general description of the location where the noise will occur, including, but not limited to, whether the property on which the noise will occur is a residence, park, church, commercial establishment or other; and

g. If the noise will be made in connection with a gathering of people, an estimate of the number of people involved.

C. Procedure for application, review and approval.

1. Upon receipt of an application for a noise permit, the County Administrator shall forward copies of the application to the Madison County Commission, the Madison County Sheriff (the "Sheriff") and the County Attorney.

2. In deciding whether to issue a noise permit, the County Administrator shall consider the following factors:

a. Whether the proposed activity or event complies with all applicable licensing and permitting requirements of Madison County;

b. Whether the proposed activity, event or noise is reasonably likely to interfere with or jeopardize the health, welfare and safety of individuals in the vicinity including, but not limited to, whether there is a history of violent or illegal acts arising out of past similar activities or events at the proposed location;

c. The nature of the activity, event or noise, including, whether the noise involves protected speech or expression;

d. The nature of the location, whether residential, commercial or other;

e. The proximity of the location to single-family or multifamily residences, churches and/or schools with consideration for the time of day the activity or event is to occur;

f. The length of time the noise will be made; and

g. Any other factors deemed relevant to the decision-making process.

3. When issuing a noise permit, the County Administrator may place any limits, restrictions or conditions on the permit deemed reasonably necessary to preserve public health, safety and welfare.

D. Contents of Noise Permit. Every noise permit shall state the following information:

1. The name and address of the individual or organization being issued the permit;

2. The location, date, starting time and approximate length of time the noise is to occur;

3. Any limitations, restrictions or conditions on the permit; and

4. Any other information necessary to ensure compliance with the permit and the laws of Madison County.

E. Invalidity of Permit. A noise permit issued pursuant to this division shall cease to be valid under any of the following circumstances:

1. The permittee, individual or organization making or creating the noise fails to comply with all permit directions, limitations, restrictions or conditions and with all applicable laws;

2. The permittee or a designated representative is not present at the permitted location and able to produce the noise permit during the entire time the permitted noise is being made or created; or

3. The application for the noise permit contains a material misrepresentation which was not corrected before the noise permit was issued.

F. Revocation Prior to Permitted Event or Activity. The County Administrator shall have the authority to revoke a permit prior to the activity or event for good cause shown but, before doing so, shall give written notice to the permittee stating the grounds for revocation.

G. Any applicant who is denied a permit or has a permit revoked may appeal to the Commission by delivery of a written notice of appeal to the County Administrator within 10 days from

the date of the denial or revocation. The notice of appeal must be in writing and specifically describe the basis for the appeal.

VI. Noise Complaint Procedure. In the event any person has reasonable grounds for believing that any provision of the Noise Ordinance is being violated, he or she may make a report to the County Administrator. The County Administrator shall investigate the complaint and may issue a fine for a first violation of the Noise Ordinance in the amount of \$50. In the event a person is deemed guilty of a second offense by the County Administrator or fails to pay any fine issued by the County Administrator, the County Administrator shall make a report to the Madison County Sheriff's Department (the "Sheriff's Department"), which shall investigate the alleged violation. If any such investigation reveals a violation, the investigating deputy shall cause a written complaint to be made, may obtain criminal process for the violation and may pursue other enforcement measures as allowed by law. Criminal process for violation of the Noise Ordinance may only be obtained by personnel from the Sheriff's Department.

A. Filing False Reports. It shall be unlawful for any person to file a false report with law enforcement, or to provide false information to an officer involving any investigation of any reported violation of this article.

B. Frivolous or unfounded complaints. It shall be unlawful for any person to file frivolous or unfounded complaints in order to intimidate or harass or to otherwise hinder or interfere with any function of the County Commission, the County Administrator, the Sheriff or any Madison County Animal Control ("Animal Control") Officer.

VII. Violations and Penalties; Enforcement.

A. This chapter shall be enforced in accordance with the applicable provisions of Constitution of Alabama of 1901, as amended, and applicable provisions of the Code of Alabama (1975).

B. The County Administrator may, upon completion of investigation, issue a notice of violation. The notice shall specify any fine to be entered as a result of the complaint. In lieu of the notice, the County Administrator may issue an order requiring abatement of any source of noise alleged to be in violation of the Noise Ordinance. The abatement order shall specify a reasonable time period within which the noise must be abated.

C. In the case of second or subsequent violations of the Noise Ordinance involving any animal which, upon investigation by an Animal Control Officer, is found to be creating the noise which causes the violation, the animal may be impounded by the Animal Control Officer and confined in an animal shelter in a humane manner. The owner of such animal may redeem the animal upon payment of applicable fees. Impoundment of such an animal shall not relieve the owner thereof from any penalty, civil or criminal, which may be imposed for violation of the Noise Ordinance.

D. Any Deputy Sheriff of Madison County, having first investigated a complaint may obtain criminal process for violation of the Ordinance. Each violation of the Noise Ordinance shall constitute a Class C misdemeanor and may be punished by fine, up to a maximum of \$500 per offense, imprisonment for a term not to exceed three months or both fine and imprisonment.

E. Each day any violation of the Noise Ordinance exists or continues constitutes a separate offense and is punishable as such.

F. The requirements of the Noise Ordinance apply equally to any person creating any noise in violation of the Noise Ordinance and/or anyone permitting such a noise to be created in, or emanate from, any premises under his or her care, custody or control.

VIII. Savings Clause. If any section, clause or provision of this Ordinance shall be deemed unconstitutional or held invalid, such shall not affect any other section, clause or provision thereof, but the same and all other provisions shall remain in full force and effect.

IX. Effective Date. The Noise Ordinance shall become effective on _____.

DONE this ____ day of _____, 2019.

MADISON COUNTY COMMISSION

Dale W. Strong
Chairman

ATTEST:

Kevin Jones
County Administrator

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