

Ordinance # 08-05-188**Amendment To Noise Ordinance 98-04-76****Noise Control Ordinance for the City of Horn Lake, Mississippi**

Whereas, the Mayor and Board of Aldermen find that excessive, unnecessary or offensive noise within the City is detrimental to the public health, safety, welfare and the peace and quiet of the inhabitants of the City of Horn Lake and therefore is hereby declared a public nuisance; and

Whereas, every person in the City is entitled to live in an environment free from excessive, unnecessary or offensive noise levels; and

Whereas, the establishment of noise regulations will further the public health, safety, welfare and peace and quiet of the City inhabitants within the City of Horn Lake, Mississippi.

NOW THEREFORE, BE IT ORDAINED, by the Mayor and Board of Aldermen of the City of Horn Lake, Mississippi, as follows:

I. General Provisions**A. Declaration of Policy**

It is hereby declared to be the policy and purpose of this ordinance to assess complaints of noises alleged to exceed the ambient noise levels. Further, it is declared to be the policy to contain sound levels in the City at the present levels with the ultimate goal of reducing such levels.

B. Liberal Construction

This ordinance shall be liberally construed so as to effectuate its purposes.

C. Severability

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed as a separate distinct and independent provision, and such holding shall not affect the validity of the remaining portion thereof.

D. Definitions:

1. Plainly audible - any sound that can be detected by a person using his or her unaided hearing faculties, however; words or phrases need not be discernible and said sound shall include bass reverberation.

II. General noise Regulations

A. It shall be unlawful for any person to make or continue to cause to be made or continued any loud, unnecessary or unusual noise which disturbs the peace and quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness present in the area.

B. The standards which may be considered in determining whether a violation of the provisions of this section exists shall include, but not be limited to, the following:

1. The sound level of the objectionable noise.

2. The sound level of the ambient noise.
3. The proximity of the noise to residential sleeping facilities.
4. The nature and zoning of the area within which the noise emanates.
5. The density of the inhabitation of the area within which the noise emanates.
6. The time of day or night the noise occurs.
7. The duration of the noise and its tonal informational musical content.
8. Whether the noise is continuous, recurrent, or intermittent.
9. Whether the noise is produced by a commercial or non-commercial activity.

III. Specific Unlawful Noises

Notwithstanding any other provision of the ordinance to the contrary, the following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this ordinance, but such enumeration shall not be deemed too be exclusive, namely:

- A. Engine Noises - Any noise made by the engine of any automobile, truck, tractor or motorcycle, not reasonably required in the operation thereof under the circumstances which shall include but not be limited to backfiring and racing the engine.
- B. Horns and Signaling Devices - The sounding of any horn or signaling device on any automobile, truck, motorcycle 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 or unreasonable period of time. The use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or any other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.
- C. Yelling and Shouting - Yelling, shouting, hooting, whistling, singing or blowing of horns on the public streets, particularly between the hours of 12:00 midnight and 7:00 am 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, motel, apartment or of any persons in the vicinity.
- D. Tools - The use of or operation between the hours of 10:00 pm and 7:00 am of any power saw, planer, or other powered tool or appliance or saw or hammer, or other tool, so as to disturb quiet, comfort, or repose of persons in any dwelling, hotel, motel, apartment, or other type of residence, or of any person in the vicinity.
- E. Blowers - The operating 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.
- F. Radios, tape players, etc. - Any noise emitted from a radio, tape player, tape recorder, record player, or television outdoors or in any public place, including but not limited to public parks, when such noise is plainly audible 30 feet or more from said device.
- G. The operation of a sound amplification system including but not limited to a radio, stereo or other like equipment in a motor vehicle in such a manner that the noise is plainly audible 30 feet or more from the vehicle or, in the case of a motor vehicle on private property, beyond the property line.
- H. Music - The playing of music by a live band or other instruments or devices utilizing sound amplification equipment in any manner so as to disturb the peace and quiet of any person in the vicinity thereof.

IV. Exemptions

The following activities shall be exempted from the provisions of this ordinance:

- A. School bands, school athletic and school entertainment events that are conducted from 7:00 am to 12:00 midnight, Monday through Saturday and 12:00 Noon to 8:00 pm on Sunday. School entertainment events shall not include events sponsored by student organizations.
- B. Outdoor gatherings, public dances, shows and sporting and entertainment events provided said events are conducted pursuant to a discretionary license or permit by the City.
- C. Activities sponsored on park and public playgrounds, provided such parks and public playgrounds are owned and operated by the public entity and activities occur between the hours of 7:00 am and 12:00 midnight.
- D. Any mechanical device, apparatus or equipment related to or connected with an emergency or emergency work.
- E. Noise sources due to the erection (including excavation), demolition, alteration or repair of any building structure between the hours of 7:00 am and 7:00 pm Monday through Saturday and 9:00 am to 6:00 pm on Sunday; provided that the operation of an internal combustion engine shall not be exempt pursuant to this subsection if such engine is not equipped with suitable exhaust and intake silencers which are in good working order. The Director or Planning may permit work to be done during hours not exempt by this subsection in the case of urgent necessity and in the interest of public health and welfare for a period not to exceed three (3) days. Application for this exemption may be made in conjunction with the application for the work permit or during the project period.
- F. Noise sources associated with agricultural operations provided such operations take place between the hours of 6:00 am and 8:00 pm; provided that the operation of an internal combustion engine shall not be exempt pursuant to this subsection if such engine is not equipped with suitable exhaust and intake silencers which are in good working order.
- G. Any mechanical device, apparatus or equipment which is utilized for the protection or salvage of agricultural crops during a period of adverse weather conditions or when the use of mobile noise sources is necessary for pest control; provided, that the operation of an internal combustion engine shall not be exempt pursuant to this subsection if such engine is not equipped with suitable exhaust and intake silencers which are in good working order.
- H. Noise sources, which are associated with maintenance of streets, trees, and residential area property provided, said activities take place between the hours of 7:00 am and 6:00 pm.
- I. Tree and park maintenance activities conducted by the City.
- J. Church bell and chimes between the hours of 7:00 am and 10:00 pm.
- K. Any noise associated with public safety vehicles, equipment or operations.

V. Enforcement

The enforcement of this Ordinance shall be the responsibility of the Chief of Police or his designee.

VI. Special Condition Permits

The Chief of Police may grant special condition permits for a period not exceeding three days when the general purpose and intent of this Ordinance

can be carried out by the granting of the special condition permit. The special condition permits can be renewed for periods not exceeding three (3) days at the discretion of the Chief of Police.

a. Application for Issuance of a Permit

Any permit issued pursuant to this Ordinance should be issued only upon receipt of a written application, which shall provide the following:

1. A description of the premises for which the permit is to be issued.
2. The dates and times for which the permit is to be issued.
3. The name, address and telephone number of the person applying for the permit.
4. Any facts, which would show that the activity for which the permit is sought would not disturb the peace of any family or person within the area into which the noise would carry.
5. The applications shall designate a responsible person to be present during the activity. The person designated shall be responsible for conducting the activity in compliance with the provisions of the permit and must be present at all times.
6. Other such information as the Chief of Police shall deem necessary and proper.

VII. Issuance of Permits

The Chief of Police shall issue a permit only upon a showing that the activity will not significantly disturb the peace of any family or person within the area in which the noise will carry. A permit shall be issued or denied within 15 days of receipt of a completed and signed application. The Chief of Police shall consider the following factors in considering whether to grant such a permit:

- a. The anticipated noise or disruption that will be caused by the activity.
- b. The time of day the activity is to take place.
- c. The proximity of the activity to residential areas, schools, churches, and other meeting places.
- d. Prior complaints from residents as a result of other similar activities.

In the event the permit is denied, the applicant may appeal the decision to the Mayor and Board of Aldermen. Appeals must be submitted to the City Clerk within 10 days of the denial of a permit by the Chief of Police.

VIII. Revocation of Permits

The Chief of Police shall have the authority to revoke any permit issued on the finding of any of the following conditions:

- a. The activity is being conducted in a manner inconsistent with the permit, including the description of the activity as set out in the application.
- b. The activity is causing a disturbance of the peace of families or persons within the area into which the noise carries.
- c. Any misrepresentation of the activity on the application for the permit.

IX. Violations and Penalties

It shall be a misdemeanor to conduct, participate in, or permit any activity in violation of the provisions of this Ordinance or to conduct, participate in, or permit any activity that violates the conditions of a permit issued pursuant to this Ordinance. Any person

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convicted of violating the provisions of this Ordinance shall be punished by a fine of not more than \$1,000.00 and/or 90 days in jail. A continuation of a violation shall constitute a separate offense .

X. **Repealing prior ordinance**

Ordinance 98-04-76 shall be repealed upon the effective date of this ordinance.


XI. **Effective Date**

This ordinance shall be effective one month from and after passage.

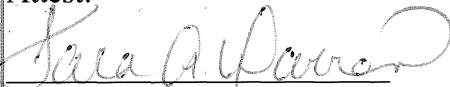
The foregoing Ordinance, having been reduced to writing, read and considered, section by section and as a whole, and same having been introduced by proper motion by Alderman Polzin and duly seconded by Alderman Downing for the adoption thereof and a vote taken thereon having the following results:

	Yea	Nay	Absent
Alderman Polzin	X		
Alderman Sheley	X		
Alderman Jones	X		
Alderman Smith	X		
Alderman Lay	X		
Alderman Downing	X		
Alderman White	X		

The foregoing ordinance was adopted this the 20th day of May, 2008.


Nat Baker, Mayor

Attest:



Deputy City Clerk

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CLERK'S CERTIFICATE

This is to certify that I am the duly appointed, qualified and acting Clerk of the City of Horn Lake, Mississippi, organized and existing under and by virtue of the laws of the State of Mississippi; that as said Clerk, I have full custody of the Minutes, Ordinances and records of the Mayor and Board of Aldermen of the City of Horn Lake, Mississippi and all other records of said City; that the foregoing pages constitute a true and exact copy of Ordinance # 08-05-188 approved by the Mayor and Board of Aldermen on the 20th day of May 2008, as found in Minute Book 22 on Pages 13055-13059.

Dated this the 28th day of May 2008.



Tara A. Warren, Deputy City Clerk

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