

Having previously been introduced at the July 10, 2023, council meeting, Council Member COLE moved the adoption of the following Ordinance, which was seconded by Council Member PATE:



ORDINANCE 23-183

AN ORDINANCE REPEALING AND REPLACING SECTION 24-6 OF THE ALABASTER CODE OF ORDINANCES (2015) AND CREATING SECTION 6-36 RELATING TO EXCESSIVE OR UNREASONABLE NOISE

WHEREAS, inadequately controlled noise is a nuisance and presents a danger to the health and welfare of the residents of the city, and,

WHEREAS, inadequately controlled noise through the operation or playing of any radio, television, phonograph, musical instrument, sound amplifier, or other device which produces, reproduces, or amplifies sound in buildings, structures, premises or motor vehicles within the jurisdictional limits of the city presents a danger to the health and welfare of the residents of the city

WHEREAS, another major source of noises include transportation vehicles and equipment, faulty mufflers, machinery, appliances, and other domestic and commercial power tools; and,

WHEREAS, every person is entitled to an environment in which the noise is not detrimental to his life, health, or enjoyment of property.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Alabaster, Alabama as follows:

Section 1: Repeal

The current Section 24-6 of the Alabaster Code of Ordinances is hereby repealed in its entirety and replaced by section 2 of this ordinance.

Section 2: Replacement of Section 24-6

There is hereby created Section 24-6 of the Alabaster City Code of Ordinance (2015) as follows:

Sec. 24-6. Reduction, control and prevention of noise.

- (a) *Purpose.* This chapter is enacted to protect, preserve and promote the health, safety, welfare and peace and quiet for the citizens of the city through the reduction, control and prevention of noise. It is the intent of this chapter to establish standards that will eliminate and reduce unnecessary and excessive motor vehicle and community noise, which are physically harmful and otherwise detrimental to individuals and the community in the enjoyment of life, property and conduct of business.
- (b) *Prohibited conduct; exceptions; penalty.*
 - (1) *Residential and commercial property.* During the hours of 10:00 PM through 7:00 AM the operating, playing or permitting the operation or playing of any radio, television, stereo, musical instrument, sound amplifying equipment, or other device which produces, reproduces or amplifies sound or to create or permit to be created, permit to be made or continued, any unreasonably loud or raucous sound or noise or outdoor party at such a volume as to annoy or disturb the quiet, comfort, or repose of any person in any adjoining residence or to interfere in the conduct of business operations at any commercial enterprise, after warning, is prohibited and a violation of this section.
 - (2) *Residential property.* Between the hours of 9:00 PM and 6:00 AM the use or permitting the use of any domestic or commercial power tools such as lawn

mowers, edgers, leaf blowers, saws, chainsaws, nail guns, jack hammers, hedge clippers, or perform outdoor construction or reconstruction, after warning, shall be prohibited and a violation of this section.

- (3) *Commercial and/or public vehicular areas.* The operation on public property or on public roads of any sound amplifier which is part of, or connected to, any radio, public address system, paging system, sound amplification equipment, stereo receiver, compact disc player, cassette tape player, or other similar device when operated in such a manner as to be audible at a distance of fifty (50) feet from the building, structure, or vehicle in which it is located is prohibited and is a violation of this section.
- (4) *Muffled automobiles.* The use of any automobile, motorcycle, truck, or vehicle so poorly muffled or out of repair in such a manner as to cause loud and unnecessary exhaust, grating, grinding, rattling, or other noise, or, in the case of intentionally modified mufflers to drive in such a way as to increase the volume of noise in residential neighborhoods is prohibited and is a violation of this ordinance.
- (5) *Horn or signal device on private and/or commercial vehicles.* The sounding of any horn, alarm or signal device on a private or commercial automobile, truck, motorcycle, bus or other vehicle while not in motion, except as a danger signal, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended, is prohibited and a violation of this section. The enforcement of this section is strictly limited to private and commercial vehicles and is not applicable to any governmental emergency vehicles, police vehicles, and fire department vehicles.
- (6) *Machine, engine or motor vehicles.* The discharge into the open air of the exhaust of any machine, of any stationary internal combustion engine or motor vehicle, except through a muffler or other noise abatement device, is prohibited. The operation of any such machine or stationary internal combustion engine or motor vehicle in such a manner as to be audible from the distance of fifty (50) feet from the building, structure, or premises upon which machine is located shall be prima facie evidence of a violation of this section.
- (7) *Engine Compression Brake Systems.* It shall be a violation of this ordinance for the operator of a motor vehicle to engage or allow to be engaged, operate, or use, an engine compression brake while the vehicle is operated on any public roadway within the corporate limits.
- (8) *Exceptions.* The provisions of this section shall not apply to the following:
 - a. Public address systems at public facilities;
 - b. Any siren, whistle, horn, bell or other signal device used by an emergency vehicle, a governmental vehicle, a police vehicle, and/or a fire department vehicle or civil defense or used by motor vehicles, trains and boats as warning devices to avoid collisions;
 - c. Noise emanating from:
 1. A special temporary event authorized by the city such as CityFest, Alabaster Jubilee, carnivals;
 2. A city event;
 3. A religious event sponsored by a house of worship.
 4. Events and/or activities at any park or stadium in the city during an official event or game;
 5. Live remote broadcasts by duly licensed radio or television stations upon business premises, at the request of the owner of the business, or reporting on current events.
 - d. The operation and maintenance of a properly muffled internal combustion engine for the purposes of generating electrical power during a power outage; and
 - e. Noise or sound created 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.

f. Fireworks on New Year's Eve until 1:00 AM on New Year's Day.

- (9) *Responsibility for creation of noise.* Any person creating any such sound or noise as described in this section and/or anyone permitting such a sound or noise to be created in, or emanate from, any premises under his/her care, custody or control shall be presumed responsible for any such sound or noise.
- (10) *Enforcement.* Any violation of this section witnessed by a law enforcement officer may be cited by the officer in his or her discretion, provided, that any violation as set forth in (b)(1) or (b)(2) the officer shall first give warning of the violation, and the violation continues after warning. Further, any person who has witnessed a violation of this section and given warning of the violation may apply to the court magistrates for a summons to be issued.
- (11) *Penalty.* Violations of this section shall be punished as set forth in Section 1-12 of this code, provided however, that a first offense in a twelve-month period the fine shall be \$25 plus costs of court and may be paid without a court appearance. Any subsequent violations in a twelve-month period shall require a court appearance.

Section 3. Barking Dogs

There is hereby created Section 6-36 of the Alabaster Code of Ordinances as follows:

Sec. 6-36 Continuous Barking Prohibited

- (a) Definitions. The following definitions shall apply to this section.
- (1) "Bark," "barks" or "barking" shall mean barking, yelping, howling, growling or otherwise making noise.
- (2) "Continuously," in regard to barking, shall mean barking which occurs during the majority of any five-minute period.
- (b) Prohibition. It shall be unlawful for any person in charge or control of any premises within the city to have or allow upon such premises any dog which barks continuously for the majority of a five-minute span of time.

Section 4. Enactment

This Ordinance shall be effective upon its passage and advertisement as required by law.

ADOPTED AND APPROVED THIS 24TH DAY OF JULY 2023

ATTEST:

CITY OF ALABASTER


J. Mark Frey, City Clerk


Greg Farrell, Council President Pro Tem

APPROVED:


Scott Brakefield, Mayor