

## ORDINANCE NO. 775-08

AN ORDINANCE MAKING IT UNLAWFUL TO CREATE AN UNREASONABLY LOUD, DISTURBING, OR UNNECESSARY NOISE WHICH EITHER INJURES OR ENDANGERS THE COMFORT, REPOSE, HEALTH, PEACE AND SAFETY OF THE CITIZENS OF THE CITY OF HELENA, ALABAMA. THIS ORDINANCE REPEALS CERTAIN ORDINANCE NO. 472 DATED AUGUST 21, 1995 AND ORDINANCE NO. 472 AMENDED DATED JULY 17, 2005.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HELENA, ALABAMA, AS FOLLOWS:

### SECTION 1. PURPOSE

This ordinance is enacted to protect, preserve, and promote the health, safety, welfare, peace, and quiet for the citizens of the City of Helena, Alabama, through the reduction, control and prevention of excessive sound or other noise. It is the intent of this ordinance to establish standards that will eliminate and reduce unnecessary and excessive community sounds or other noises which are physically harmful and otherwise detrimental to individuals and the community in the enjoyment of life, property and conduct of business.

### SECTION 2. DEFINITIONS

All technical terminology used in this ordinance shall, for the purpose of this ordinance, have the meanings hereinafter ascribed to them.

- (1) **Sound:** Energy that is transmitted by longitudinal pressure waves in the air or other materials and is the objective cause of the sensation of hearing.
- (2) **Noise:** Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.
- (3) **Commercial Premises:** Shall, for the purpose of this ordinance, mean any premise where offices, businesses, clinics, kennels, shopping, restaurants and service establishments exist.
- (4) **Property Line:** Shall, for the purpose of this ordinance, mean that any real or imaginary line and its vertical extension which (a) separates real property owned or controlled by any person from contiguous real property owned or controlled by another person, and (b) separates real property from the public premises.
- (5) **Residential Premises:** Shall, for the purpose of this ordinance, mean any premises where single or multiple dwelling units exist and shall include schools, churches, hospitals, nursing homes and similar institutional facilities.

**SECTION 3.           SOUNDS ON COMMERCIAL PREMISES**

No person, firm or corporation shall, within the hours from 12:00 midnight until 7:00 a.m. the following morning, operate or cause to be operated on any commercial premises, any source of sound or other noise in such a manner as to create a sound level which is subject to detection by the normal unaided human ear on any residential premise within the City.

**SECTION 4.           LIVE OR ELECTRONICALLY PRODUCED MUSIC**

No person, firm or corporation shall transmit or allow to be transmitted any live or electronically produced music or other sound on any property at a sound level which is detectable by the normal unaided human ear beyond the property line of the person, firm or corporation upon whose property said sound or other noise is emanating from.

**SECTION 5.           EXCESSIVE NOISE RESTRICTED**

(a) It is hereby declared unlawful and a nuisance for any person, firm or corporation to operate or play any radio, musical instrument or similar device or to generate live music, noise or sound, whether from a motor vehicle, a pedestrian or from a commercial or residential premise which may, between the hours of 12:00 midnight and 7:00 a.m. the following morning, be heard in such a manner as to be plainly audible to any person other than the player or operator of the device, or the provider of said music, or the persons located on the premises from which said music, sound or noise emanates.

(b) It is hereby declared a nuisance and shall be unlawful to operate or play any radio, television, musical instrument or similar device or to produce live music, sound or noise in any manner which produces or reproduces sound or noise, whether from a business or residence, in such manner as to be plainly audible outside the property line of such business or residence between the hours of 12:00 midnight and 7:00 a.m. the following morning.

(c) Regardless of any other provision contained in this ordinance or any section thereof, no person, firm or corporation shall operate or play any radio, stereo system, musical instrument or other similar device which generates any noise or sound from any motor vehicle or other vehicle located on or within any public road or right-of-way within the City, at such a sound level or in a manner where same may be detectable by or audible to the normal unaided human ear beyond or outside of the right-of-way boundaries or lines of such public road or right-of-way.

**SECTION 6.           EXCEPTIONS**

Nothing in this ordinance shall be construed to prohibit any noise or sound produced by radio, siren, or other equipment attached to or being operated by police, fire, rescue or other emergency vehicles or personnel.

**SECTION 7. VIOLATIONS**

(a) Any person, firm or corporation who violates any of the terms of this ordinance shall, on conviction, be fined \$500.00 and may also be sentenced to hard labor for the City, not exceeding thirty (30) days, one or both.

(b) The violation of this ordinance, or any part thereof, on more than one(1) day shall each constitute separate offenses.

**SECTION 8. SEVERABILITY**

If any section, clause, or provision of this ordinance be declared unconstitutional or held invalid, it shall not affect any other section, clause or provision thereof, but the same shall remain in full force and effect.

**SECTION 9. EFFECTIVE DATE**

This ordinance shall become effective upon its passage and adoption by the City Council of the City of Helena, Alabama, and publication as required by law.

**ADOPTED and APPROVED** this 16<sup>th</sup> day of June, 2008.



Peggy C. Dunaway  
Peggy C. Dunaway, City Clerk

Charles W. Penhale  
Charles W. Penhale, Mayor

Jerry Deon Pate, Council Member

Colleen K. Lenz, Council Member

Katherine E. Ennis, Council Member

Barbara F. Hyche, Council Member

Cris A. Nelson, Council Member

**STATE OF ALABAMA**  
**SHELBY COUNTY**

I, Peggy C. Dunaway, City Clerk of the City of Helena, do hereby certify that the above is a true correct copy of **Ordinance Number 775-08** duly adopted by the Council of the City of Helena at its meeting held 16<sup>th</sup> day of June, 2008, and as same appears of record in the ordinance records of said City, and approved by the Mayor and City Council on 16<sup>th</sup> day of June, 2008.

Given under my hand and corporate seal of the City of Helena, this the 16<sup>th</sup> day of June, 2008.



Peggy C. Dunaway  
Peggy C. Dunaway, City Clerk

**CERTIFICATION**

I, Peggy C. Dunaway, the duly appointed and acting Clerk of the City of Helena, Alabama, do hereby certify that the within Ordinance Number **775-08** is a true copy as recited in the said City Clerk's Minute Book and posted by me as provided by law in three public places in said City, being on the bulletin board of the City Hall, in the BP Coosa Mart in the City of Helena, and in the Helena Public Library in said City, that said Ordinance shall become a duly lawful Ordinance of said City on the 23<sup>rd</sup> day of June, 2008, five or more days after the posting of the same as provided by law.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on this the 16<sup>th</sup> day of June, 2008.



Peggy C. Dunaway  
Peggy C. Dunaway, City Clerk

*Replaced  
By ord 795-08*

Council member Tom Lefebvre introduced the following Ordinance:

**ORDINANCE NO. 472 AMENDED**

AN ORDINANCE TO AMEND SECTION 3, SECTION 5, AND SECTION 6 OF ORDINANCE NO. 472, TO CHANGE THE TIMES FOR ALLOWABLE SOUNDS OR NOISE AS PROVIDED THEREIN.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HELENA, ALABAMA, AS FOLLOWS:

Section 1. That Section 3 of Ordinance No. 472 of the City of Helena, Alabama, is hereby amended as follows:

"Section 3. No person, firm or corporation shall, within the hours from 12:00 o'clock midnight until 7:00 o'clock a.m. the following morning, operate or cause to be operated on any Commercial Premises any source of sound or other noise in such a manner as to create a sound level which is subject to detection by the normal human ear on any residential Premise within the City."

Section 2. That Section 5 of Ordinance No. 472 of the City of Helena, Alabama, is hereby amended as follows:

"Section 5. It is hereby declared unlawful and a nuisance for any person, firm or corporation to operate or play any radio, musical instrument or similar device or to generate live music, noise or sound, whether from a motor vehicle, a pedestrian or from Commercial or Residential Premises which may, between the hours of 12:00 o'clock midnight and the following morning at 7:00 o'clock a.m., be heard in such manner as to be plainly audible to any person other than the player or operator of the device, or the provider of said music, or the persons located on the premises from which said music, sound or noise emanates."

Section 3. That Section 6 of Ordinance No. 472 of the City of Helena, Alabama, is hereby amended as follows:

"Section 6. It is hereby declared a nuisance and shall be unlawful to operate or play any radio, television, musical instrument or similar device or to produce live music, sound or noise, in any manner which produces or reproduces sound or noise, whether from a business or residence, in such manner as to be plainly audible outside of the Property Line of such business or residence, between the hours of 12:00 o'clock midnight and the following morning at 7:00 o'clock a.m."

Section 4. Effective Date.

This Ordinance shall become effective upon its passage and adoption by the City Council of the City of Helena, Alabama, and publication as required by law.

ADOPTED AND APPROVED this 11 day July, 2005.



Charles W. Penhale, Mayor

Attest:



Peggy Dunaway, City Clerk

## CERTIFICATION

I, Peggy C. Dunaway, the duly appointed and acting Clerk of the City of Helena, Alabama, do hereby certify that the within Ordinance Number **472 (AMENDED)** is a true copy as recited in the said City Clerk's Minute Book and posted by me as provided by law in three public places in said City, being on the bulletin board of the City Hall, and in the Helena Public Library in said City, in the BP Coosa Mart in the City of Helena and that said Ordinance shall become a duly lawful Ordinance of said City of the 17 day of July, 2005, five or more days after the posting of the same as provided by law.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on this the 11 day of July, 2005.

  
\_\_\_\_\_  
Peggy C. Dunaway  
City Clerk





Section 6. It is hereby declared a nuisance and shall be unlawful to operate or play any radio, television, musical instrument or similar device or to produce live music, sound or noise in any manner which produces or reproduces sound or noise, whether from a business or residence, in such manner as to be plainly audible outside of the Property Line of such business or residence between the hours of 12:00 o'clock midnight and the following morning at ~~9:00~~ <sup>7:00</sup> o'clock a.m. Amended 7/11/05

Section 7. Nothing in this ordinance shall be construed to prohibit any noise or sound produced by radio, siren or other equipment attached to or being operated by police, fire, rescue or other emergency vehicles or personnel.

Section 8. Any person, firm or corporation who violates any of the terms of this ordinance shall, on conviction, be fined Five Hundred and no/100 Dollars (\$500.00) and may also be sentenced to hard labor for the City, not exceeding thirty (30) days, one or both.

Section 9. The violation of this ordinance or any part thereof on more than one (1) day shall each constitute separate offenses.

Section 10. Severability - If any section, clause, or provision of this ordinance be declared unconstitutional or held invalid, it shall not affect any other section, clause or provision thereof, but the same shall remain in full force and effect.

Section 11. Effective Date - This ordinance shall become effective on the 30 day of August, 19 95.

ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF HELENA, ALABAMA AT COUNCIL MEETING HELD ON Aug. 21, 1995.

  
Charles W. Penhale, Mayor

ATTEST:

  
Frances Parrish, City Clerk

See 3,5 & 6  
Amended  
7/11/2005

BE IT ORDAINED by the City Council of the City of Helena, Alabama, as follows:

Replaced  
775-08

Section 1. Purpose - This ordinance is enacted to protect, preserve, and promote the health, safety, welfare, peace, and quiet for the citizens of Helena, Alabama, through the reduction, control and prevention of excessive sound or other noise. It is the intent of this ordinance to establish standards that will eliminate and reduce unnecessary and excessive community sounds or other noises which are physically harmful and otherwise detrimental to individuals and the community in the enjoyment of life, property and conduct of business.

Section 2. Definitions - All technical terminology used in this ordinance shall, for the purpose of this ordinance, have the meanings hereinafter ascribed to them.

(a) "Sound" - energy that is transmitted by longitudinal pressure waves in air or other material and is the objective cause of the sensation of hearing.

(b) "Noise" - any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

(c) "Commercial Premise" - shall, for the purpose of this ordinance, mean any premise where offices, businesses, clinics, kennels, shopping, restaurants and service establishments exist.

(d) "Property Line" - shall mean that real or imaginary line and its vertical extension which (a) separates real property owned or controlled by any person from contiguous real property owned or controlled by another person and, (b) separates real property from the public premise.

(e) "Residential Premise" - shall mean any premise where single or multiple dwelling units exist and shall include schools, churches, hospitals, nursing homes and similar institutional facilities.

Section 3. No person, firm or corporation shall, within the hours from 12:00 o'clock midnight until ~~9:00~~ <sup>7:00</sup> o'clock a.m. the following morning, operate or cause to be operated on any Commercial Premise any source of sound or other noise in such a manner as to create a sound level which is subject to detection by the normal human ear on any Residential Premise within the City.

Section 4. No person, firm or corporation shall transmit or allow to be transmitted any live or electronically produced music or other sound on any property at a sound level which is detectable by the normal unaided human ear beyond the Property Line of the person, firm or corporation upon whose property said sound or other noise is emanating from.

Section 5. It is hereby declared unlawful and a nuisance for any person, firm or corporation to operate or play any radio, musical instrument or similar device or to generate live music, noise or sound, whether from a motor vehicle, a pedestrian or from a Commercial or Residential Premise which may, between the hours of 12:00 o'clock midnight and the following morning at ~~9:00~~ <sup>7:00</sup> o'clock a.m. be heard in such manner as to be plainly audible to any person other than the player or operator of the device, or the provider of said music, or the persons located on the premises from which said music, sound or noise emanates.