

ORDINANCE NO. 1780

AN ORDINANCE TO PROHIBIT EXCESSIVE NOISE IN THE CITY OF TALLADEGA; TO PROVIDE FOR REGISTRATION FOR OUTDOOR ENTERTAINMENT EVENTS; TO PROVIDE FOR THE PUNISHMENT FOR THE VIOLATION OF SAID ORDINANCE; AND TO REPEAL ORDINANCE 1261 AND ORDINANCE 1383.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TALLADEGA AS FOLLOWS:

SECTION 1. PURPOSE

This Ordinance is enacted to protect, preserve, and promote the health, safety, welfare, well being, and tranquility of the citizens of the City of Talladega through the control of noise. It is the intent of this Ordinance to establish standards that will reduce excessive community noises, which are harmful and otherwise detrimental to individuals and to the community in the enjoyment of life and property and in the conduct of business.

SECTION 2. SOUND MEASUREMENT STANDARDS FOR LAW ENFORCEMENT PERSONNEL

For the purpose of this Ordinance, *plainly audible* means any sound emanating from the specific sound producing sources set forth hereinafter that can be heard from the distances set forth hereinafter using the following sound measurement standards: measurement shall be by the auditory senses of a person standing at a distance no less than the required minimum distance as set out hereinafter from the source of the sound. For music and other noise, words and phrases need not be discernable. For music and other noise, bass reverberations are included. The term *person* as used herein means natural or artificial person.

SECTION 3. PROHIBITED CONDUCT

A. Restrictions of fifteen (15) feet from a pedestrian or fifty (50) feet from a structure from 7:00 a.m. through 10:00 p.m. Sunday through Thursday and 7:00 a.m. through 11:00 p.m. on Friday and Saturday.

Mechanical sound making devices. It shall be unlawful for any person to play, use, operate, or permit to be played, used, or operated any radio receiving device, television, stereo, CD player, musical instrument, phonograph sound amplifier, or other machine or device for the producing, reproducing or amplifying of sound and/or noise at such a volume and in such a manner so as to create, or cause to be created, any noise or sound which are plainly audible at a distance of fifteen (15) feet from a pedestrian or fifty (50) feet or more from the building, structure, or in the case of real property beyond the property limits, in/on which it is located, whichever is farthest, between the hours of 7:00 a.m. and 10:00 p.m. Sunday through Thursday and between the hours of 7:00 a.m. and 11:00 p.m. on Friday and Saturday.

Human produced sounds. It shall be unlawful for any person to yell, shout, hoot, whistle, or sing on the public streets or sidewalks or on private property so as to create, or cause to be created, any noise or sound which are plainly audible at a distance of fifteen (15) feet from a pedestrian or fifty (50) feet or more from the place, building, structure, or in the case of real property beyond the property limits, in/on which the person is located, whichever is farthest, between the hours of 7:00 a.m. and 10:00 p.m. Sunday through Thursday and between the hours of 7:00 a.m. and 11:00 p.m. on Friday and Saturday.

Commercial advertising. It shall be unlawful for any person to use, operate, or permit to be used or operated any radio receiving device, television, stereo, musical instrument, phonograph, sound amplifier for phonograph or any other device, CD player, loud speaker, or other machine or device for the production or reproduction of sound which is cast upon the public streets or other public property for the purpose of commercial advertising or which serves to attract the attention of the public to any building, structure, or in such a manner so as to create, or cause to be created, any noise or sound which are plainly audible at a distance of fifteen (15) feet from a pedestrian or fifty (50) feet or more from the source of the sound cast upon the public streets or other public property or from the building, structure, or in the case of real property beyond the property limits, in/on

which it is located, whichever is farthest, between the hours of 7:00 a.m. and 10:00 p.m. Sunday through Thursday and between the hours of 7:00 a.m. and 11:00 p.m. on Friday and Saturday.

Party noise. It shall be unlawful for any person in charge of a party or other social event that occurs on any private property to allow that party or social event to produce noise or sound in such a manner that such noise or sound is plainly audible at a distance of fifteen (15) feet from a pedestrian or fifty (50) feet or more from the building or structure from which the noise or sound is emanating or in the case of real property beyond the property limits, on which the party or social event is located, which is farthest, between the hours of 7:00 a.m. and 10:00 p.m. Sunday through Thursday and between the hours of 7:00 a.m. and 11:00 p.m. on Friday and Saturday. For the purposes of this subsection, a person in charge of a party or other social event shall mean any adult person who resides in or on the premises involved in such party or social event and is present at such party or social event. For the purposes of this subsection, a noise shall mean the same sounds, or any combination thereof, as described in paragraphs 1 and 2 of this section.

B. Restrictions of 10 feet from a pedestrian or twenty-five (25) feet from a structure from 10:00 p.m. through 7:00 a.m. Sunday through Thursday and 11:00 p.m. through 7:00 a.m. on Saturday and Sunday.

Mechanical sound making devices. It shall be unlawful for any person to play, use, operate, or permit to be played, used, or operated any radio receiving device, television, stereo, CD player, musical instrument, phonograph sound amplifier or other machine or device for the producing, reproducing or amplifying of sound and/or noise at such a volume and in such a manner so as to create, or cause to be created, any noise or sound which are plainly audible at a distance of 10 feet from a pedestrian or twenty-five (25) feet or more from the building, structure, or in the case of real property beyond the property limits, in/on which it is located, whichever is farthest, between the hours of 10:00 p.m. and 7:00 a.m. Sunday through Thursday and between the hours of 11:00 p.m. and 7:00 a.m. on Saturday and Sunday.

Human produced sound. It shall be unlawful for any person to yell, shout, hoot, whistle, or sing on the public streets or sidewalks or on private property so as to create, or cause to be created, any noise or sound which are plainly audible at a distance of 10 feet from a pedestrian or twenty-five (25) feet or more from the place on public streets and sidewalks, or in the case of private real property beyond the property limits, on which the person is located, whichever is farthest, between the hours of 10:00 p.m. and 7:00 a.m. Sunday through Thursday and between the hours of 11:00 p.m. and 7:00 a.m. on Saturday and Sunday.

Commercial advertising. It shall be unlawful for any person to use, operate, or permit to be used or operated any radio receiving device, television, stereo, musical instrument, phonograph, sound amplifier for phonograph or any other device, CD player, loud speaker, or other machine or device for the production or reproduction of sound which is cast upon the public streets or other public property for the purpose of commercial advertising or which serves to attract the attention of the public to any building, structure, or in such a manner so as to create, or cause to be created, any noise or sound which are plainly audible at a distance of ten (10) feet from a pedestrian or twenty-five (25) feet or more from the source of the sound cast upon the public streets or other public property or from the building, structure, or in the case of real property beyond the property limits, in which it is located, whichever is farthest, between the hours of 10:00 p.m. and 7:00 a.m. Sunday through Thursday and between the hours of 11:00 p.m. and 7:00 a.m. on Saturday and Sunday.

Party noise. It shall be unlawful for any person in charge of a party or other social event that occurs on any private property to allow that party or event to produce noise or sound in such a manner that such noise or sound is plainly audible at a distance of 10 feet from a pedestrian or fifteen (15) feet or more from the building or structure from which the party noise or sound is emanating or in the case of real property beyond the property limits, on which the party or social event is located, whichever is farthest, between the hours of 10:00 p.m. and 7:00 a.m. Sunday through Thursday and between the hours of 11:00 p.m. and 7:00 a.m. on Saturday and Sunday. For the purposes of this subsection, a person in charge of a party or other social event shall mean any adult person who resides in or on the premises involved in such party or social event and is present at such party or social event. For the purposes of this subsection a noise shall mean the same sounds, or any combination thereof, as described in paragraphs 1 and 2 of this section.

C. Restrictions for areas within apartments, condominiums, townhouses, duplexes, or other such residential dwelling units.

1(a). Except for a person or persons within commercial enterprises that have an adjoining property line or boundary with a residential dwelling unit, it shall be unlawful at any time for any person to make, continue, or cause to be made or continued any noise in such a manner as to be plainly audible to any other person a distance of five feet beyond the adjoining property line wall or boundary of any apartment, condominium, townhouse, duplex, or other such residential dwelling unit with adjoining points of contact.

1(b). For the purposes of this subsection, Anoise@ shall mean human produced sounds of yelling, shouting, hooting, whistling, singing, or mechanically produced sounds made by radio receiving device, television, stereo, CD player, musical instrument, phonograph sound amplifier or other machines or devices for the producing, reproducing, receiving or amplifying of sound, or any combination thereof.

1(c). For the purpose of this subsection, Aproperty line or boundary@ shall mean an imaginary line drawn through the points of contact of (1) adjoining apartments, condominiums, townhouses, duplexes or other such residential dwelling units with adjoining points owned, rented, or leased by different persons; or (2) adjoining common areas or adjoining exterior walls. Said property line or boundary includes all points of a plane formed by projecting the property line or boundary including the ceiling, the floor, and the walls.

D. Restrictions for motor vehicles, moving or parked.

1(a). It shall be unlawful for any person at any time to make, continue, or cause to be made or continued any noise in such a manner as to be plainly audible to any other person a distance of five (5) feet beyond the exterior of the motor vehicle.

1(b). For the purposes of this subsection, Anoise@ shall mean human produced sounds of yelling, shouting, hooting, whistling, singing, or mechanically produced sounds made by radio receiving device, television, stereo, CD player, musical instrument, phonograph sound amplifier or other machines or devices for the producing, reproducing, receiving or amplifying of sound, or any combination thereof.

1(c). For the purposes of this subsection, Amotor vehicle@ shall include but not be limited to: cars, motorcycles, ATVs, recreational vehicles, trailers, buses, vans or semi-tractor trailers.

1(d). There is excepted from this subsection any food vendor trucks or ice cream vendor trucks playing music to attract customers between the hours of 7:00 a.m. through 10:00 p.m. Sunday through Thursday and 7:00 a.m. through 11:00 p.m. on Friday and Saturday.

E. Exclusions. The prohibitions of this Ordinance shall not apply to the following:

1. Noises and/or sounds caused to be made by manufacturing, governmental, construction or commercial entities in the normal course of their business.
2. Noises and/or sounds emanating from any official Talladega City School event on Talladega City Schools property; provided however, the sponsors of any event that is covered by this subsection, including commercial entertainment, shall be required to comply with the provisions of Section 4;
3. Noises and/or sounds from a permitted outdoor event pursuant to Section 4 of this ordinance; provided however, that the producer or coordinator of the special event must comply with the terms, restrictions and conditions of the outdoor event permit;
4. Noises or sounds made by wireless telecommunications facilities.
5. Noises or sounds caused by industrial uses in the Limited Industrial Zoning District (M1) and General Industrial Zoning District (M2).
6. Noises or sounds made by law enforcement and other public safety officials performing their public functions.

F. Time restrictions on use of landscape maintenance motorized devices such as leaf blowers, lawn mowers, or chain saws. It shall be unlawful for any person to use or operate any noise-generating, motorized landscape maintenance devices, including, but not limited to leaf blowers, lawn mowers, chain saws, lawn tractors or trimmers within any residential zoning district or in areas within one hundred fifty (150) feet of any residential zoning district from 9:00 p.m. to 7:00 a.m.

SECTION 4. OUTDOOR ENTERTAINMENT EVENT PERMIT

It shall be unlawful for any outdoor entertainment event that has commercial entertainment and/or electronic amplification of sound to be held without the sponsor of said event or the person in charge obtaining an outdoor entertainment event permit. Permitting of the event must be seventy-two (72) hours prior to the event and must be by the person or persons responsible for the event. Permits are obtained from the City of Talladega Police Department Monday through Friday, from 9:00 a.m. to 4:00 p.m., on an application furnished by the Chief of Police. The said application shall include the name of the organization sponsoring the event, the location of the event, the date and time of the event, and security provisions for the event. Registration shall not be accepted for events that include the hours between 10:00 p.m. and 7:00 a.m. Sunday through Thursday, and between 11:00 p.m. and 7:00 a.m. on Saturday and Sunday. Failure to obtain a permit shall be a violation of this Ordinance and in addition to any penalty imposed for said violation, may also result in the forfeiture of the right to obtain a permit for future events. Obtaining a permit does not exempt the person or persons organizing the event from ensuring that the event complies with the requirements of this Ordinance.

SECTION 5. PENALTIES

Any violation of this Ordinance shall constitute a criminal misdemeanor. Any person who shall be convicted of violating any provision of this Ordinance shall, upon conviction, be punished by a fine of not less than One and no/100 (\$1.00) Dollar, no more than Five Hundred and no/100 (\$500.00) Dollars, or by imprisonment in the City Jail for not more than one hundred eighty (180) days, or both at the discretion of the Court trying the case.

SECTION 6. SEVERABILITY CLAUSE

All sections of this Ordinance are hereby declared to be severable; and if any word, phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or invalid by the judgment or decree of any Court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining words, phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 7. REPEAL OF INCONSISTENT ORDINANCES

Upon adoption of this Ordinance and its passage and publication as provided by law, all Ordinances or resolutions inconsistent with this Ordinance are hereby repealed; and specifically Ordinances Number 1261 and 1383 are hereby repealed.

SECTION 8. ADOPTION AND EFFECTIVE DATE

This Ordinance shall take effect immediately upon its passage and publication as provided by law.

ADOPTED and APPROVED this the 3rd day of November, 2014.

- Council President Donnie Miller
- Councilman Horace Patterson
- Councilman Joe Ballow
- Councilman Ricky Simpson
- Councilman Jarvis Elston
- City Manager Brian Muenger

Attested to: Elizabeth Cheeks, City Clerk