

ORDINANCE NO. 2024-01-\_\_ -\_\_

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AN ORDINANCE ADOPTING THE ASHLAND NOISE ORDINANCE OF 2024, IN ACCORDANCE WITH THE PROVISIONS OF TITLE 11, CHAPTER 52, CODE OF ALABAMA, 1975, AS AMENDED; REPEALING ALL CONFLICTING ORDINANCES, INCLUDING THE ASHLAND NOISE ORDINANCE DATED DECEMEBR 20, 2010, AS AMENDED; AND PROVIDING FOR AN EFFECTIVE DATE OF SAID ORDINANCE

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

**ARTICLE I**  
**Intent & Definitions**

**Section 1.1. Intent and Purpose.** It is the intent of this Ordinance to prohibit and prevent noise disturbances or unreasonable noise from all sources to secure and promote the public health, comfort, convenience, safety, welfare and prosperity of the City of Ashland (“City”) and its residents and citizens. Above certain levels or durations or during specific times of day, unnecessary and loud noises and sounds are detrimental to the health, safety, and welfare of the City and individuals’ respective rights to peaceful and quiet enjoyment. To that end, this Ordinance seeks to establish objective standards for regulating unnecessary and excessive vehicle and community noise that endangers the health, safety, or welfare of people in the City, unreasonably annoys or disturbs persons in the vicinity of such noise or is otherwise detrimental to the City or is residents and the people therein. Nothing in this Ordinance is intended to deter individuals from lawfully exercising the individual right of freedom of speech or any other freedom guaranteed under the Constitutions of the United States of America or of the State of Alabama, and this Ordinance seeks to strike an appropriate balance between facilitating such activities, which are vital to the conduct of the normal pursuits of life within the community, and individuals’ respective rights to a safe, peaceful, and healthful environment.

**Section 1.2. Interpretation.** If any two or more of the provisions of this Ordinance are applicable to any given noise or sound, the most restrictive provision shall apply.

**Section 1.3. Definitions.** Except as otherwise provided herein, the following words and phrases shall have the meanings given in this section when used in the Ordinance.

- a. *Plainly audible* means any sound that can clearly be heard, by unimpaired auditory senses of any person, based on a direct line of sight of not less than the minimum distance specified in the applicable section or subsection of this Ordinance. Words or phrases need not be discernable and bass reverberations are included.
- b. *Property line* means either (a) the vertical boundary that separates one parcel of property from another parcel or public way, including a public street, right-of-way, or alley;

(b) the vertical and horizontal boundaries of a dwelling unit or office that is part of a multi-unit building or structure; or (c) on a multi-use property, the vertical or horizontal boundaries between each portion of the property that serves a different use (e.g., residential/business).

c. *Excessive or Unreasonably loud, disturbing, or raucous sound or noise* shall mean (i) any noise or sound that injures, harms, or endangers the health, safety, or welfare of a reasonable person of ordinary sensitivity or public or private property or (ii) is so loud and harsh, prolonged, unnatural, or unusual in time or place that it annoys or disturbs a reasonable person of ordinary sensitivity or unreasonably interferes with such person's peace, comfort, or enjoyment of life or property.

## ARTICLE II Generally

**Section 2.1. Excessive or unreasonably loud, disturbing, or raucous sound or noise prohibited.** No person shall make, continue, or cause or permit to be made or continued any excessive or unreasonably loud, disturbing, or raucous sound or noise, and such noises or sounds are hereby declared to be a nuisance.

**Section 2.2. Declaration of certain excessive or unreasonably loud, disturbing, or raucous sounds or noises.** Excessive or unreasonably loud, disturbing, or raucous sounds or noises are hereby declared to include, but are not limited to, the following:

a. **Horns and other signal devices.** The sounding of any horn or signal device on any automobile, bus, or other vehicle except as a danger or warning signal to other vehicle operators, pedestrians, or other similar persons. The use of any signaling device, other than a signaling device operated by electricity or by hand, by the operator or passenger of a motor vehicle is prohibited.

b. **Shouting, singing, etc.** Yelling, shouting, hooting, singing, screaming, or making other vocal sounds or noises in or about public streets or other public property, particularly during the hours of 11:00 pm to 7:00 am, or at any time or place so as to unreasonably annoy or disturb the quiet, comfort, or repose of any person of ordinary sensitivities in any residence, hotel, or other lodging facility, or in an office.

c. **Exhausts.** The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, or any vessel or vehicle except through a muffler or other device that effectively prevents loud or explosive noises therefrom that is in good and working order and in constant operation.

d. **Loudspeakers, amplifiers, etc. for commercial advertising purposes.** The use or operation, or permitting the use or operation, of any drum, bell, horn, instrument, phonograph, loudspeaker, amplifier, public address system, or other instrument or device for production or reproduction of sound that is plainly audible ten (10) or more feet beyond the property line of

the property on which the sound is produced or reproduced or ten (10) or more feet from source of the sound if the device is in or affixed to a vehicle or in a public area for the purpose of, or intending to attract attention to, any building, structure, performance, show, sale, or display of merchandise, or for any other commercial advertising purpose, in a manner to either annoy, disturb, or injure or endanger the comfort, health, peace or safety of reasonable persons of ordinary sensitivities.

e. **Sound amplification systems, television sets, etc.** Operating, playing, or permitting the playing of any sound amplification system, television set, musical instruments, radio, phonograph, sound amplifier or similar device that produces or reproduces sound in a such a manner as to either annoy or disturb the quiet, comfort, or repose of any reasonable person of ordinary sensitivity residing, working, or conducting affairs, whether business or personal, in the vicinity or at any time or place, including parking lots or gas stations, where such sounds endanger the health, safety, and welfare of other people in the vicinity or impede the safe operation of motor vehicles. Without limiting the foregoing, the following acts are expressly declared to violate this subsection.

1. **Generally.** Operating, playing, or permitting the playing of any such device in such a manner as to be plainly audible at a distance of fifty (50) or more feet to any person in a commercial, residential, or public place or to be plainly audible within the nearest building if such structure is nearer than thirty (30) feet to the source of the sound.

2. **Multi-unit buildings.** Operating, playing, or permitting the operation of any such device within a multi-unit building as to be plainly audible to any person in another unit of the building between the hours of 8:00 am and 5:00 pm, if the other unit is a commercial or business unit, and between the hours of 10:00 pm and 7:00 am, if the other unit is a residential unit.

3. **Parking lots, filling stations, etc.** Operating, playing, or permitting the operation of any such device, including any device in or affixed to a motor vehicle, as to be plainly audible at a distance of five (5) or more feet in any parking lot, exterior of a gas station or service station, gasoline or motor fuel dispensing facilities, or any similar outdoor area where motor vehicles stand or park and that is generally accessible by the public, whether privately or publicly owned.

f. **Emergency Signaling Device, Burglar Alarms.** Sounding or permitting the sounding of any fire, burglar, or security alarm, whether for a building, structure, or motor vehicle, unless such alarm is automatically terminated within fifteen (15) minutes of activation; provided, however, there shall not be a violation when there has been an attempted or actual entry of the premises or vehicle or the actuation of such system in the event of a fire or other hazard against which the device(s) are intended to warn.

g. **Domestic Power Tools & Equipment.** Operating or permitting the operation out of doors of any powered saw, grinder, lawn or garden tools or equipment or similar devices between the hours of 9:00 pm and 7:00 am in any residentially zoned district or within one hundred (100) feet of any such district.

h. **Construction Activities.** Any and all activity incidental to the erection, demolition, assembling, altering, repairing, or equipping of buildings, structures, roads, or appurtenances thereto, including, without limitation, installing, grading, excavating, and filling, between the hours of 9:00 pm and 7:00 am in any residentially zoned district or within one hundred (100) feet of any such district; provided, however, that the City's code enforcement officer may permit such work during the hours of 9:00 pm and 7:00 am when traffic conditions prohibit such activity during other times.

i. **Emergencies.** Emergency repair or maintenance of public roads and highways, parks, sewers, water, gas, electric, or telephone systems at any time or any private construction necessary to restore property to a safe condition from eminent calamity or work required to protect persons or property from eminent exposure to danger is exempted from this subsection.

j. **Noises near schools, courts, churches, or hospitals.** Creating or permitting excessive noise within three hundred (300) feet of any school, institution of learning, hospital, nursing home, church, or court while the same is in use that unreasonably interferes with the workings of such institutions or unreasonably disturbs or annoys the patients of such hospitals or nursing homes; provided, however, that a sign indicating that the structure is a school, hospital, nursing home, church, or court shall be conspicuously displayed on or near such structure.

**Section 2.3. Motor Vehicles.** No person operating, occupying, or having control of a motor vehicle on any street, highway, alley, right-of-way, or driveway, either public or private, shall operate or permit operation of any sound amplification system, including, but not limited to, any radio, tape player, compact disc player, loud speaking, or any other electrical or mechanical device that amplifies sound from within the motor vehicle such that the sound is plainly audible at a distance of fifteen (15) or more feet from the vehicle.

**Section 2.4. Animals.** No person shall fail to exercise the necessary care and control to prevent any animal(s) in his or her possession or care from habitually or continuously making any disturbing noises, including, without limitation, crowing, barking, yelping, whining, or other utterances that causes unreasonable annoyance or discomfort to persons of ordinary sensitivity in the vicinity of where the animal is kept.

**Section 2.5. Exceptions.** The following acts, noises, and sounds are excluded from the operation of this Ordinance:

a. **Bells and chimes.** Bells, chimes, and other devices for the production or reproduction of sound associated with a clock or other time keeping device or purposes, and specifically those of churches, courts, and schools.

b. **Emergency vehicles, sirens, horns.** Nothing in this Ordinance shall be construed as prohibiting noises or sounds produced by radios, sirens, alarms, bells, or other equipment or devices of any type that are attached to, or being operated by, any police, fire, rescue or other emergency vehicles or personnel, including horns, sirens, and devices of any type sounded for the purpose of warning the public of hazardous conditions, such as inclement weather, and the reasonable testing of such systems.

c. **Permitted Temporary Activities.** This Ordinance shall not apply to activities of a temporary duration that produce loud noises at reasonable times and places that are permitted by law and for which the City has issued a license or permit or of which the City has otherwise approved, including, but limited to, parades, concerts, and fireworks displays, provided that such activities shall be conducted in a manner to avoid the creation of excessive, unreasonable, or disturbing noise within five hundred (500) feet within any school, institution, or learning, church, or court while the sale is in use, or adjacent to any hospital, nursing home or similar facility, so as to unreasonably or unduly disturb the workings of such institutions and that such event is conducted only between the hours of 7:00 am and 11:00 pm when within one hundred (100) feet of a residentially zoned district.

d. **Sporting Events.** Attendant on-site noise connected with the actual performance of organized sporting events on school campuses and in publicly or privately owned parks, stadiums, arenas, tracks, or other similar facilities.

e. **Public Work.** Noise or sound created in the performance of public service by government bodies, agencies, or boards and their respective contractors when engaged or performing duties concerning the public safety, health, or welfare. Notwithstanding the foregoing, nothing in this subsection shall permit construction activities at such times or places that are otherwise prohibited by this Ordinance.

f. **Special performances.** Special performances by a band, orchestra, or other musician(s) in a hall or building, or in the open air after proper permits have been obtained from the City.

g. **Business Notification Systems.** Sound generated from the use of a public address system at a business for communication necessary to the operation of the business, but not for the purpose of intending to attract attention to the building, structure, performance, show, sale, or display of merchandise, or for any other commercial advertising purpose.

**ARTICLE III**  
**Sound Levels in Zoning Districts**

**Section 3.1. Definitions.** For the purpose of this Article, the following words and phrases shall have the following meanings and definitions:

a. *A-weighted sound level* means the sound pressure level as measured with the sound level meter using the A weighing network. The standard unit notation is dB(A).

b. *Ambient noise* means background noise, the all-encompassing noise level associated with a given environment, being a composite of all sounds from all sources, excluding the alleged offensive noise, at the location and approximate time at which a comparison with the alleged offensive noise is to be made. The ambient noise shall be measured using the same weighting (e.g., A-weighting) required by this chapter for the measurement of the alleged offensive noise.

c. *Business district* shall have the same meaning as in the City's Zoning Ordinance, including B-1, General Business District and B-2, City Square Commercial District.

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

e. *Industrial district* shall have the same meaning as in the City's Zoning Ordinance, including IND: General Industrial District.

f. *Land use category* means the existing utilization of the land or subject property regardless of the zoning district in which the property is located.

g. *Residential district* shall have the same meaning as in the City's Zoning Ordinance and includes: R-1, Single-family Residential District; R-2, Multi-family Residential District; and R-MH, Manufactured Home District.

h. *Sound level* means a measure of the level of a sound with a weighting network in the measurement chain.

i. *Sound level meter* means an apparatus or instrument including a microphone, amplifier, attenuator, output meter, and frequency weighing networks for the measurement of sound levels.

**Section 3.2. Sound Levels.** No person shall operate, generate, or permit or cause to be operated or generated any source of sound in such a manner to create a sound level that exceeds the following limits during the stated time periods, when measured at a distance that is not less than the distance between the source of the noise and the approximate location of the nearest property line. The section shall not be construed as requiring the measurement of sound level by or with a sound level meter to establish a violation of Sections 2.1 or 2.2 of this Ordinance.

District or Land Use Category	Time	Sound Level Limit dB(A)
Residential & Public Open Space	7:00 a.m.—10:00 p.m.	70
	10:00 p.m.—7:00 a.m.	60
Business	At all times	75
Industrial	At all times	75

**Section 3.3. Instrument.** Sound level meters used in making sound level measurements shall be of type 1, 2, or S2A, meet the requirements of the American National Standards Institute, Inc. or its successor bodies, and be calibrated not less than once every three years. Calibrations shall be to standards traceable to the National Bureau of Standards.

**Section 3.4. Measurement.** The sound level meter shall be operated in accordance with the manufacturer’s instructions and as follows:

a. **Microphone Orientation.** The microphone shall be pointed towards the allegedly offensive noise source unless the manufacturer’s instructions specifically state otherwise.

b. **Meter setting.** The meter shall be set for the A-weighted network and fast response mode.

c. **Meter reading.** The recorded reading shall be the highest sound level obtained with the allegedly offensive noise source in operation, disregarding unrelated peaks due to extraneous ambient noises.

d. **Sound level measurement.** Sound levels shall be measured no closer than the approximate location of the property line or the boundary of public premises, at a height of at least four (4) feet above the ground.

**Section 3.5. Nuisance Declared.** Any sounds or noises, except those excepted from the operation of this Ordinance by Section 2.5, that exceed the sound level limits herein are declared to be a public nuisance.

#### **ARTICLE IV** **Enforcement**

**Section 4.1. Misdemeanor.** It is a misdemeanor for any person to violate any provision of this Ordinance, and each violation shall be a separate offense. Any law enforcement officer of the City shall be permitted to cite an individual for a violation of this Ordinance.

a. **Continuous Violation:** If the violation is of a continuous nature, each day during which it occurs shall constitute a separate violation.

**Section 4.2. Penalties.** Each person convicted of violating this Ordinance shall be punished by a fine of not less than \$50 nor more than \$500.00, by imprisonment for not more than thirty (30) days, or both for each conviction.

**Section 4.3. Abatement.** The City’s code enforcement officer and chief of police may, in addition to the authority to issue a citation, issue to any person believed to be in violation of this Ordinance a written order directing the person to abate the nuisance created by the offending sound or noise.

**Section 4.4. Injunctive Relief.** In addition to any other penalties or remedies provided hereunder, the City shall have the right to proceed in the circuit court for injunctive relief for any violation of this ordinance by filing suit in the name of the City.

**ARTICLE V**  
**Miscellaneous**

**Section 5.1. Repeal.** The 2010 Ashland Noise Ordinance, adopted on December 20, 2010, by Ordinance No. 2010-12-20-01, shall be and hereby is repealed to the extent necessary to give this Ordinance full force and effect. The repeal of the 2010 ordinance shall have no effect on pending cases concerning a violation of said ordinance.

**Section 5.2. Severability.** If any section, clause, provision, or portion of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this Ordinance that is not, in and of itself, invalid or unconstitutional.

**Section 5.3. Effective Date.** This Ordinance shall be effective upon its due adoption and publication as provided by law.

Adopted this the \_\_\_\_ day of \_\_\_\_\_, 2024.

CITY OF ASHLAND, ALABAMA

\_\_\_\_\_  
LARRY J. FETNER, its Mayor

ATTEST:

\_\_\_\_\_  
CHELSEY WYNN, Ashland City Clerk



STATE OF ALABAMA    )  
  )  
COUNTY OF CLAY     )

**CERTIFICATION OF PUBLICATION**

I hereby certify that the Ashland Noise Ordinance of 2024, passed and adopted on the \_\_\_\_ day of January, 2024 as Ordinance No. 2024-01-\_\_-\_\_, was published by posting at the following locations on the \_\_\_\_ day of January, 2024, at \_\_\_\_ o'clock \_\_.m.:

1. Ashland City Hall (Mayor’s office);
2. Ashland Public Library;
3. Ashland Post Office;
4. the Clay County Courthouse; and
5. City of Ashland website (<https://www.cityofashlandal.com/>).

All notices will remain posted for not less than thirty (30) days after posting.

**CERTIFIED** this \_\_\_\_\_ day of January, 2024.

**CITY OF ASHLAND, ALABAMA**

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**CHELSEY WYNN**  
City Clerk/Administrator