CITY OF DAPHNE
ORDINANCE NO. 2003- 32

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AN ORDINANCE REGULATING NOISE WITHIN THE CITY OF DAPHNE, ALABAMA

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WHEREAS, the City Council of the City of Daphne, Alabama desires to protect, preserve and promote the health, safety, welfare, peace, quiet and repose for the citizens of Daphne through the reduction, control and prevention of excessive and unreasonable noise: and

WHEREAS, the Council wishes to establish standards that will eliminate and reduce unnecessary and excessive noises which are detrimental to individuals and the community in the enjoyment of life, property and the conduct of business and private affairs;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA AS FOLLOWS:

SECTION I. ILLEGAL NOISES-LOUD, DISTURBING OR UNNECESSARY, PROHIBITED.

A. No person shall make, continue or cause to be made or continued any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others in the City. It shall also be unlawful and a nuisance for any person to permit any such noise to be made in any house or upon any premises owned or possessed by him or under his management or control.

B. The following acts, and the causing thereof, are declared to be in violation of this section, but such enumeration shall not be deemed to be exclusive:

1) Horns, signaling devices, etc.

a) The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle, except as a danger warning when and as required by ordinances of the City of Daphne or by the Code of Alabama;

b) The sounding of such signaling device for any period of time exceeding that in which the warned person or persons are alerted thereto;

c) The use of any such signaling device when traffic is held up for any reason;

d) The use of any horn, whistle or other device operated by engine exhaust.

2) Animals, birds, etc.

The keeping of any animal or bird which causes repeated noise which is plainly audible to any person inside a commercial, residential, multifamily dwelling or public place between the hours of 10:00 p.m. and 7:00 a.m.

3) Stationary non-emergency, signaling devices.

a) The sounding or permitting the sounding of any signal from any stationary bell, chime, siren, whistle or similar device intended primarily for non-emergency purposes, from any place, for more than one minute in any hourly period;

b) Any such bell, chime and similar device used in conjunction with places of religious worship shall be exempt from the operation of this provision.

4) Exhausts

The discharge into the open air of the exhaust of any steam engine or internal combustion engine of any motor boat or motor vehicle except through a muffler or other in good working order and in constant operation. The sound therefrom such shall not be plainly audible outside a radius of fifty (50) feet.

5) Fireworks

The explosion of firecrackers, skyrockets, roman candles, pinwheels or any other form of fireworks, except the display of fireworks in public parks or other open places within the City under a permit issued by the fire marshal pursuant to the fire prevention code of the City or as provided in Ordinance No. 1994-09.

6) Loudspeakers, amplifiers, etc. for commercial advertising purpose.

The use, operation or permitting the use or operation of any drum, bell, horn, musical, instrument, stereo, loud speaker, amplifier, public address system or other instrument or device or the production or reproduction of sound which casts sound upon the public streets for the purpose of commercial advertising or intending to attract attention to any building, structure, performance, show, sale or display of merchandise, or for any other commercial advertising purposes.

7) Radios, stereos, television sets, musical instruments, etc.

a) The operating, playing or permitting the operation or playing of any device, radio, television, stereo, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound in such a manner as to create any sound or noise which exceed 60 dB [during the hours of 10:00 p.m. until 7:00 a.m.] at any property line within a residential district or upon any public street of right-of-way within, or bordering upon any residential district within the corporate limits of the City of Daphne.

b) The operating, playing or permitting the operation or playing of any device, radio, television, stereo, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound in such a manner as to be plainly audible outside a radius of twenty-five (25) feet to any person inside a commercial, residential, multifamily dwelling or public place [during the hours of 10:00 p.m. until 7:00 a.m.]. This includes, but is not limited to, any low level rhythmic base component of music sufficient to constitute a violation thereof.

c) The operation of any device, radio, television, personal stereo, cassette player, compact disc player, digitally stored audio or video player, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound by a passenger on a common carrier or by a pedestrian on the street without the use of an external ear plug speaker in such a manner as to be plainly audible to any person other than the player or operator of the devise at a distance of twenty-five (25) feet.

8) Unreasonable sound amplification from a vehicle.

a) The operation or permitting of the operation of, any sound amplification system which is plainly audible outside a radius of twenty-five (25) feet when the vehicle is on a public highway or on premises open to the public, unless that system is being operated to request assistance or warn of a hazardous situation.

b) This section does not apply to:

i. Emergency vehicles

ii. Vehicles operated by utilities

iii. Sound systems of vehicles used for advertising in parades, political or other, special events or when properly permitted by the City Council.

9) Defect in vehicle or load.

The use or operation of any automobile, motorcycle or other vehicle which by its physical state of repair, physical state of disrepair or by the manner in which it is loaded creates any grating, grinding, rattling or other noise which is plainly audible outside a radius of fifty (50) feet when the vehicle is on a public highway or on premises open to the public.

10) Emergency signaling devices.

Sounding or permitting the sounding of any exterior burglar alarm or any motor vehicle burglar alarm unless such alarm is automatically terminated within fifteen minutes of activation unless there has been an attempted or actual entry of the premises or vehicle.

11) Domestic power tools.

The operating or permitting the operation out of doors of any mechanically powered saw, sander, drill, grinder, lawn or garden tool or similar device between the hour of 10:00 p.m. and 7:00 a.m. in a residential area.

12) Construction

a) Any and all activity incidental to the erection, demolition, assembling, altering, repairing, installing, or equipping of buildings, structures, roads, or appurtenances thereto, including land clearing, grading, excavating and filling between the hours of 10:00 p.m. and 7:00 a.m. in a residential area.

b) Emergency repair or maintenance of public roads and highways parks, sewers, water, electric, gas or telephone systems at any time or any such private construction necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from eminent exposure to danger shall be exempt from the operation of this provision.

13) Noises near schools, courts, churches or hospitals.

The creation of any noise on any street adjacent to any school, institution of learning, church or court which the same is in use, or adjacent to any hospital, nursing home or similar facility which is plainly audible within said school, institution of learning, church or court which the same is in use, or any hospital, nursing home or similar facility, provided that construction signs are displayed in such street indication that the same is a school, hospital church or court street and specifying the hours and days of which such regulation is to be effective.

B. The provisions of Section 1 heretofore shall not apply to:

1) any bell or chime from any clock, school or church.

2) any siren, whistle, horn or bell used by emergency vehicles or any other alarm systems used in case of fire, collision, civil defense, burglary, police activity, except as otherwise provided herein.

3) any construction equipment operated upon residential, commercial, industrial or public premises during the time period between 6:00 a.m. and 9:00 p.m.; provided however, that operation of construction equipment between the hours of 9:00 p.m. and 6:00 a.m. shall not exceed the maximum sound levels specified heretofore, and further provide that such equipment shall be equipped with a properly installed muffler in good working order.

4) any domestic power equipment operated upon any residential, commercial, industrial or public premises during the time period between 6:00 a.m. and 9:00 p.m., provided that such equipment does not exceed a sound level of 80 dB when measured at a minimum of twenty-five (25) feet from the noise source, and further provided that between the hours of 9:00 p.m. and 6:00 a.m., such equipment does not exceed the maximum sound levels specified herein above.

5) any recreational or educational activity including, but not limited to, school bands and neighborhood ball games, provided that between the hours of 10:00 p.m. and 7:00 a.m. such activity does not exceed the maximum sound levels specified herein above.

6) licensed refuge collection vehicles operating during the time period between 6:00 a.m. and 9:00 p.m.; provided, however, sound omitted from license refuge collection vehicles operated upon or within 150 feet of any residential premises between the hours of 9:00 p.m. and 6:00 a.m. shall not exceed the maximum sound levels specified herein above.

7) The emission of sound for the purpose of alarming persons to the existence of an emergency; or

8) The emission of sound in the performance of emergency work.

C. Except as provided here-in-below, the Mayor shall have the right to waive any or all of the requirements of Section 1 in cases of emergency where the
welfare of persons or property may be jeopardized by their strict enforcement, or on such special occasions as the governing body may determine; exemptions from the requirements of Section I (b)(7)(a) relating to the time periods during which radios, phonographs, television sets, musical instruments, etc. may be operated and may only be granted:

1) During weekends, legal holidays (or eve thereof), or school vacations

2) After due consideration of the factors set forth in Section I (B)(5); and

3) Upon approval of the Council representative for the district where the event is to be held approval of administrative staff.

SECTION II. PENALTY.

A. Any person found guilty of violating any provision of this Ordinance shall be punished by a fine of not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00), or by imprisonment for a period not exceeding six (6) months, or both, in the discretion of the Municipal Judge.

B. This Ordinance shall also be subject to enforcement by the issuance of a summons and complaint pursuant to the provisions of Ordinance No. 1993-02, as the same may be from time to time amended.

SECTION III. REPEALER

Ordinances Nos. 1993-15, 1993-20, 1994-15, 1997-10, 1998-13 and 2002-03 are repealed in their entirety. All other City Ordinances or parts thereof in conflict with the provision of this Ordinance, in so far as they conflict, are hereby repealed.

SECTION IV. SEVERABILITY

The provisions of this Ordinance are severable. If any provision, section, paragraph, sentence or part thereof shall be held unconstitutional or invalid, such decision shall not affect or impair the remainder of the Ordinance, it being the legislative intent to ordain and enact each provision, section, paragraph, sentence and part thereof separately and independently of each other.

SECTION V. EFFECTIVE DATE

This Ordinance shall become effective and be in force from and after the date of its approval and adoption by the City Council of Daphne and publication as required by law.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA this the 15th day of December, 2003.

CITY OF DAPHNE

E. HARRY BROWN, MAYOR

ATTEST:

DAVID COHEN, CITY CLERK