

ORDINANCE NO. 400

AN ORDINANCE PROHIBITING UNNECESSARY NOISE,
SPECIFYING UNLAWFUL NOISES, GRANTING EXEMPTIONS
TO THE ORDINANCE, PROVIDING PENALTIES, TO SET
AN EFFECTIVE DATE, AND FOR RELATED PURPOSES.

BE IT ORDAINED by the Mayor and Board of Aldermen of the
Town of Mt. Olive, Mississippi, in regular council convened:

SECTION 1. The Board of Aldermen find that:

A. Unnecessary noise degrades the environment of the Town
of Mt. Olive to a degree which:

- i. is harmful and detrimental to the health, wealth and
safety of its citizens; and
- ii. interferes with the comfortable enjoyment of life,
property and recreation and with the conduct and
operation of business and industry; and
- iii. causes nuisances.

B. No one has any right to create unnecessary noise.

C. Effective control and elimination of unnecessary noise
is essential to the furtherance and health and welfare of the
Town's citizens, and to the conduct of the normal pursuits of
life, recreations, commerce and industrial activity.

D. A busy town creates sufficient noise by its own
activity which cannot be eliminated, therefore, it is in the
public interest that unnecessary noise be eliminated within the
corporate limits.

E. It is the express intent of the Board of Aldermen that
the proliferation of boom boxes, portable radios and tape players
being played outside of dwellings, upon the public way, on public
sidewalks and in parks and plaza areas and on porches and steps
of buildings be discouraged. Individuals who find it necessary
to operate these devices out-of-doors at loud levels should
operate them with headsets or headphones attached so that the
persons who desire to listen to these devices may enjoy them in
comfort and that they may not be permitted to create a nuisance
in the neighborhood.

F. Furthermore, it is the express intent of this Board of
Aldermen that commercial establishments which provide live
entertainment, jukebox entertainment or entertainment through
some amplification system be discouraged from having such
entertainment audible outside of said premises.

SECTION 2. Short Title. This Ordinance shall be known and
may be cited as the "Noise Ordinance".

SECTION 3. General noise prohibition. It shall be unlawful
for any person within the Town of Mt. Olive to make, continue or
cause to be made or continued, any loud, unnecessary or unusual
noise which either disturbs or endangers the comfort, repose,
health, peace of safety of others within the limits of the Town.

SECTION 4. Specific unlawful noises. The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this Ordinance, but such enumeration shall not be deemed to be exclusive, namely:

- (a) Motor noises: Any noise made by the motor of any automobile, truck tractor, motorcycle, not reasonably required in the operation thereof under the circumstances and shall include but not limited to backfiring and motor racing.
- (b) Horns and signaling devices: The sounding of any horn or signaling device on any automobile, motorcycle, trolley coach or other vehicle on any street or public place of the Town, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time. The use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or any other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.
- (c) Yelling and shouting: Yelling, shouting, hooting, whistling, singing or blowing of horns on the public streets, or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in office, or in any dwelling, hotel, motel, apartment or other type of residence, or of any persons in the vicinity.
- (d) Pile drivers, hammers, etc: The operation between the hours of 10:00 p.m. and 7:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise.
- (e) Tools: The use of or operation between the hours of 10:00 p.m. and 7:00 a.m. of any power saw, power planer, or other powered tool or appliance or saw or hammer, or other tool, so as to disturb the quiet, comfort or repose of persons in any dwelling, hotel, motel, apartment, or other type of residence, or of any person in the vicinity.
- (f) Blowers: The operating of any noise-creating blower or power fan or any internal combustion engine the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noises.
- (g) Exhausts: The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, motorcycle or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom. No person while on a public or private highway, street or road shall operate a motor vehicle with the muffler cut out or removed.
- (h) Loading, unloading, opening boxes: The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers.

- (i) Hawkers, peddlers and vendors: The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of persons in the neighborhood.
- (j) Drums: The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.
- (k) Transportation of metal rails, pillars and columns: The transportation of rails, pillars or columns of iron, steel or other material, over and along streets and other public places upon carts, drays, cars, trucks in any manner so as to cause loud noises or to disturb the peace and quiet of persons in the vicinity thereof.
- (l) Animals, birds, fowls: The keeping of any animal bird or fowl which by causing frequent or long continued noise shall disturb the comfort or repose of persons in the vicinity.
- (m) Radios, tape players, etc.: Any noise emitted from a radio, tape player, tape recorder, record player, or television outdoors on or in any publicly owned property or place, including but not limited to public parks when such noise is audible to a person or normal hearing sensitivity one hundred (100) feet from said radio, tape player, tape recorder, record player, or television.
- (n) Music: The playing of music by a live band or other instruments or devices utilizing sound equipment and/or the amplification of voices in any manner so as to disturb the peace and quiet of persons in the vicinity thereof.

SECTION 5. Exemptions. The following uses and activities shall be exempt from the noise prohibitions described in other sections of this Ordinance.

- (a) None-amplified crowd noises resulting from legal activities, between the hours of 7:00 a.m. and 9:00 p.m.
- (b) Construction operations from which building permits have been issued, or construction operations not requiring permits due to ownership of the project by an agency of government, provided such equipment is operated with the manufacturing mufflers and noise reducing equipment in use and in proper operating condition.
- (c) Noises of safety signals, warning devices, and emergency pressure relief valves.
- (d) Noises resulting from any authorized emergency, fire or police vehicle when responding to an emergency call, acting in time of emergency or in connection with official police or fire department business.
- (e) Noises from emergency work, being work made necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from an imminent exposure to danger or work by private or public utilities when restoring utility service.
- (f) Noises made by places of worship using bells, chimes or carillons as part of their religious observance and by persons having obtained a permit to use the streets.

- (g) Any aircraft operated in conformity with, or pursuant to, a federal law, federal air regulations, and air traffic control instructions and pursuant to and within the duly adopted federal air regulations. Any aircraft operating under technical difficulties in any kind of distress, under emergency orders of air traffic control or being operated pursuant to and subsequent to the declaration of any emergency under federal air regulations are also exempt.
- (h) All noises resulting from normal operations of railroad trains are exempt; provided, however, that excessive use of railroad train signaling devices are declared to be loud, disturbing, and unnecessary noises.
- (i) Use of public address systems in any ball park or stadium while an athletic contest is in progress therein.
- (j) Cries for emergency assistance and warning calls.
- (k) Any other noise resulting from activities of a temporary duration and for which a permit has been granted by the Chief of Police, Assistant Chief or Mayor.

SECTION 6. Permits. The Chief of Police, Assistant Chief of Police or Mayor may grant a temporary permit to persons desiring to use loudspeakers or other electrical devices for parades or for religious, social or political gatherings to be held in any park or other suitable place of assembly.

- (a) Applications. Any permit issued hereunder should be issued only on written application which shall set forth the following:
 - (1) A description of the premises for which the permit shall issue.
 - (2) The dates and times for which the permit is to be issued.
 - (3) The name and address of the person applying for the permit.
 - (4) Any facts which would show that the activity for which the permit is sought would not disturb the peace of any family or person within the area into which the sound shall carry.
 - (5) The application shall designate a responsible person to be present during the activity. Said person to be responsible for conduction the activity in compliance with the provisions of the permit and must be present at all times.
 - (6) Other such information as the Chief of Police, Assistant Chief of Police or Mayor shall deem necessary and proper.
 - (7) The application shall become a part of any permit issued.
- (b) Issuance. The Chief of Police, Assistant Chief of Police or Mayor shall issue a permit only upon a

showing that the activity will not disturb the peace of any family of person within the area which the noise will carry. A permit shall be issued or denied within fifteen (15) days of receipt of a completed, signed application. The Chief of Police, Assistant Chief of Police or Mayor shall consider the following factors in considering whether to grant such a permit.

- (1) The anticipated noise.
- (2) The time of day the activity is to take place.
- (3) The proximity of the activity to residential area, schools, churches or other meeting places.
- (4) Prior complaints from residents as a result of other similar activities.

In the event a permit is denied, the applicant may appeal the decision to the Mayor and Board of Aldermen. Any such appeal shall be taken not more than ten (10) days from denial of a permit by giving notice of the appeal to the Town Clerk.

(c) Revocation. The Chief of Police, Assistant Chief of Police or Mayor shall have the authority to revoke any permit issued on the finding of any of the following:

- (1) That the activity is being conducted in a manner inconsistent with the permit, including the description of the activity as set out in the application.
- (2) That the activity is causing a disturbance of the peace of families or persons within the area into which the sound carries.
- (3) That there is any misrepresentation of the activity on the application for the permit.
- (4) Other good cause.

SECTION 7. Penalty. Any person, firm or corporation violating any provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction shall be fined a minimum of One Hundred Dollars (\$100.00) and/or sentenced to serve ten (10) days in jail, or both, for the first offense; and shall be fined a minimum of Two Hundred Fifty Dollars (\$250.00) and/or sentenced to serve twenty (20) days in jail, or both, for the second offense; and shall be fined up to One Thousand Dollars (\$1,000.00) and/or sentenced to serve thirty (30) days in jail, or both, for any subsequent offense. Each day such violation is committed or permitted to continue shall constitute a separate offense.

SECTION 8. Severability. If any provision, clause, sentence or paragraph of this Ordinance, or the application thereof to any person or circumstances, shall be held invalid, such invalidity shall not affect the other provisions or applications of the provisions of this Ordinance which can be given effect without invalid provisions or applications, and to this end, the provisions of this Ordinance are declared to be severable.

Section 9. Repeal. Any ordinances in conflict with this Ordinance are hereby expressly repealed.

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Section 10. Effective Date. This Ordinance shall take force and effect as provided by law.

On motion of Madison Magee and seconded by Gene Holmes, the foregoing Ordinances having been previously reduced to writing, read and considered, first by section and then as a whole, received the following "yea" and "nay" voted, to wit:

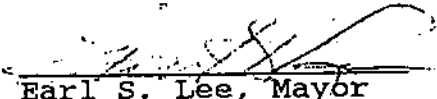
Those voting yea: Gene Holmes
Madison Magee
Robert Mc Nair
Iva Murphy
Stuart K. Sumrall

Those voting nay: None

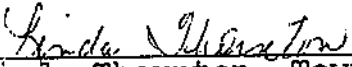
Those absent and/or not voting: None

The ordinance having received the affirmative vote of the Board of Alderman of the Town of Mt. Olive, Mayor Earl S. Lee declared said Ordinance to have been duly carried.

SO ORDAINED AND APPROVED; this the 1st day of March, A. D., 1994.


Earl S. Lee, Mayor

Attested:


Linda Thornton, Town Clerk

CERTIFICATE

I, Linda Thornton, Town Clerk in and for the Town of Mt. Olive, Mississippi, do hereby certify that the above and foregoing Ordinance was duly enacted by the Mayor and Board of Aldermen of the Town of Mt. Olive, Mississippi, on March 1, 1994, and is being published as required by the order of the Mayor and Board of Aldermen.

WITNESS MY SIGNATURE AND OFFICIAL SEAL on this the 1st day of March, 1994.


LINDA THORNTON

(Seal)