

PROPOSED ORDINANCE 20-_____
Sponsored by Justice Higgins

BE IT ENACTED BY THE QUORUM COURT OF FAULKNER COUNTY, STATE OF ARKANSAS, AN ORDINANCE ENTITLED:

“AN ORDINANCE PROVIDING FOR THE REGULATION OF NOISE”

DEFINITIONS: For the purpose of this ordinance the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Decibel (dB). A unit for measuring the volume of a sound, equal to twenty (20) times the logarithm to the base ten of the ratio of the pressure of the sound measured to the referenced pressure, which is 20 micropascals (20 micronewtons per square meter).

Emergency. Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

Emergency work. Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

Measurements. Sound level measurements shall be made with a sound level meter Type II or better using the A-weighted scale in conformance with the standards outlined in SECTION 3.

Noise. Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

Noise disturbance. Any sound which:

- (1)Endangers or injures the safety or health of humans or animals;
- (2)Annoys or disturbs a reasonable person of normal sensitivities; or
- (3)Endangers or injures personal or real property.

Sound level. The weighted sound pressure level obtained by the use of a sound level meter and frequency weighing network, such as A, B, or C as specified in the American National Standards Institute's specifications for sound level meters. If the frequency weighing employed is not indicated, the A-weighing shall apply.

Sound level meter. An instrument which includes a microphone, amplifier, RMS detector, integrator or time average, or output meter, and weighing network used to measure sound pressure levels.

SECTION 1. This ordinance establishes permitted noise levels in Faulkner County in order to regulate the impact of continuous noise sources on human health, the surrounding landowners and outdoor recreation. It shall be unlawful for any person to make, continue, or cause to be made or continued, any loud, unnecessary, or unusual noise or any noise which either annoys, disturbs, injures, or endangers the comfort, repose, health peace, or safety of others.

SECTION 2. In rural Faulkner County, which is intended to describe areas outside of the city limits of all established municipalities, no person shall operate or cause to be operated, or permit, contract or allow to be operated on premises on public or private property any identifiable source of sound in such a manner as to create a sound level which exceeds the maximum noise levels as set forth in this ordinance as measured at any point on the boundary of the property from which the sound or noise was emanating. Noise levels shall not exceed:

- (a) Between the times of 10 p.m to 6 a.m., 65 dB
- (b) Between the times of 6 a.m. to 10 p.m., 75 dB

SECTION 3. (a) The Faulkner County Sheriff's office shall be equipped with a decibel meter(s) with a measuring range of up to 130dB, date and time-stamped measurements, memory, and software. Upon receiving a complaint, the County Sheriff's office may conduct an on-site investigation and take sound measurements as prescribed herein.

(b) The following provide guidance for the measurement of sound levels:

- (1) Sound level meters shall be equipped with wind screens, and readings taken when the wind velocity at the time and place of measurement is not more than five (5) miles per hour.
- (2) Sound level measurements shall be taken four (4) feet above ground level.
- (3) Sound levels shall be determined by averaging minute-by-minute measurements made over minimum five (5) minute sample duration if practicable. The sample shall be taken under conditions that are representative of the noise experienced by the complainant (e.g., at night, morning, evening, or during special weather conditions).
- (4) In all sound level measurements, the existing ambient noise level from all other sources in the encompassing environment at the time and place of such sound level measurement shall be considered to determine the contribution to the sound level by the source.

SECTION 4. The county judge shall have the authority to issue a permit, upon a showing of undue hardship, for a variance to this ordinance upon a showing by the applicant that:

- (1) Additional time is necessary for the applicant to alter or modify his activity or operations to comply with this ordinance; or
- (2) The activity, operation or noise source will be of a temporary duration and cannot be done in a manner that would comply with this ordinance; and
- (3) No reasonable alternative is available to the applicant.
- (4) An application for a variance permit shall be in writing on a form prescribed by the county judge. In issuing a variance permit, the county judge may impose reasonable conditions or requirements necessary to minimize adverse effects upon the surrounding neighborhood.
- (5) *Appeal.* An applicant who is denied a variance by the county judge, or any citizen of the county aggrieved by the issuance of a variance, may appeal to the Faulkner County Quorum Court by filing written notice of appeal with the County Clerk within ten (10) days from the date of the county judge's decision. The notice of appeal shall specifically state the reasons why the applicant considers the county judge's findings and decision to be in error. The Faulkner County Quorum Court shall hear the matter within forty-five (45) days of the filing of the appeal. An affirmative vote of three-fifths (3/5) of the total membership of the quorum court shall be required to override the decision of the county judge.

SECTION 5. EXEMPTIONS:

- a. All emergency equipment used during an emergency or power outage is exempt from this ordinance. Any vehicle of the county while engaged in necessary public business.
- b. Sirens, whistles, or bells lawfully used by emergency vehicles, or other alarm systems used in case of fire, collision, civil defense, police activity, severe weather warnings, or as a warning of imminent danger. The intentional sounding or permitting the sounding of any fire, burglar or civil defense alarm, siren, whistle or similar stationary or emergency signaling device, for emergency purposes or for testing, provided such testing uses only the minimum cycle test time.
- c. The use of bells or chimes in conjunction with places of religious worship.

- d. Due to the necessity to develop national resources the equipment used in the drilling of oil, gas, water, and other wells which are in operation less than 30 days at the same location is exempt from this ordinance.
- e. Pursuant to Arkansas code title 2. Agriculture, Subtitle 1. General Provisions, Chapter 4. Agricultural Operations As Nuisances, Sec 2-4-105. Local Ordinances Void. All agricultural operations and agricultural facilities are exempt from this ordinance.
- f. Outdoor school and playground activities conducted on public playgrounds and public or private school grounds, which are conducted in accordance with the manner in which such spaces are generally used, including, but not limited to, school athletic and school entertainment events.
- g. All public rodeos.
- h. All fireworks being used to celebrate New Year's Eve or July 4th are exempt from this ordinance.

SECTION 6. The violation of this ordinance shall be a misdemeanor punishable by a fine not less than \$100.00 nor more than \$250.00 for a first offense in a three-month period. A second violation or subsequent violation of this ordinance within a three-month period shall be punishable by a fine not less than \$250.00 nor more than \$500.00.

SECTION 7. If any provision of this Ordinance or the application thereto to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are declared to be severable.

SECTION 8. This ordinance being necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist and shall be in full force and effect from and after its passage.

PASSED this _____ day of _____, 2020.

COUNTY JUDGE

ATTEST:

COUNTY CLERK
ATTEST DATE: _____