

ORDINANCE NO. 182
AN ORDINANCE REGULATING NOISE,
DECLARING AN EMERGENCY,
AND FOR OTHER PURPOSES

WHEREAS, it is declared to be the policy of the City of Tontitown, Arkansas, that the peace, health, safety, and welfare of its citizens require protection from excessive, unnecessary, and unreasonable noises from any and all sources in the community; and

WHEREAS, it is the intention of the Tontitown City Council to control the adverse effect of the noise sources on the citizens under any condition of use, especially those conditions of use that have the most severe impact on any person or persons;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TONTITOWN, ARKANSAS.

ARTICLE 1. Loud Noise Prohibited. It shall be unlawful for any person or persons to willfully make, continue, or cause to be made or continued, any loud and raucous noise. For purposes of this ordinance, the term loud and raucous noise shall mean any sound which, because of its volume level, duration, and character, annoys, disturbs, injures, or endangers the comfort, health, peace, or safety of reasonable persons of ordinary sensibilities within the city limits of Tontitown.

ARTICLE 2. Acts Deemed Public Nuisances. The following acts, subject to any exceptions as set forth below, are declared to be public nuisances, and therefore, in violation of this ordinance:

(1) Engine exhaust. The discharge into the open air of the exhaust of any steam engine or stationary internal combustion engine except through a muffler or other device which will effectively prevent loud and raucous noises therefrom;

(2) Pile drivers, steam shovels, etc. The operation between the hours of 6:00 p.m. and 7:00 a.m. on any day or at any time on Sunday, of any pile driver, steam shovel, pneumatic hammer, derrick, dredge, steam or electric hoist, or other such appliance, the use of which is attended by loud and raucous noise;

(3) Blowers, fans, etc. The operation of any blower or power fan or any internal combustion engine, the operation of which causes loud and raucous noise, unless the noise from such blower or fan is muffled, or such engine is equipped with a muffler

device sufficient to prevent loud and raucous noise;

(4) Horns, signaling devices, etc. The sounding of any horn, whistle, or other audible signaling device so as to create a loud and raucous noise;

(5) Radios, amplifiers, phonographs, etc. Using, operating, or permitting to be played, used, or operated, any radio, amplifier, musical instrument, phonograph, or other device for the producing or reproducing of sound in such manner as to cause loud and raucous noise;

(6) Soundtrucks. No amplifier or loudspeaker in, upon, or attached to a sound truck or other device for amplifying sound shall be operated or be permitted to operate within the city for the purpose of advertising or to attract the attention of the public;

(7) Yelling, shouting, etc. Yelling, shouting, whistling, or singing at any time or place so as to create a loud and raucous noise between the hours of 10:00 p.m. and 7:00 a.m. on any day;

(8) Animals, birds, etc. The keeping of any animal or bird which habitually causes a loud and raucous noise;

(9) Defect in vehicle or load. The use of any motor vehicle so out of repair, so loaded, or loaded in such a manner as to create loud grating, grinding, rattling, or other loud and raucous noise, or which is not equipped with a muffler in good working order and in constant operation so as to prevent loud and raucous noise;

(10) Building construction or repair. The erection, including excavating, demolition, alteration, or repair of any building so as to create a loud and raucous noise other than between the hours of 7:00 a.m. and 6:00 p.m. on Monday through Saturday, except in cases of urgent necessity in the interest of public health and safety, and then only with a permit from the City Code Enforcement Officer which permit may be granted for a period not to exceed three working days or less while the emergency continues, and which permit may be renewed for successive periods of three days or less while the emergency continues. If the City Code Enforcement Officer should determine that the public health and safety necessitates the issuance of such a permit and will not be impaired by the erection, demolition, alteration, or repair of any building or the excavation or repair of any building, or the excavation of streets and highways within the hours of 6:00 p.m. and 7:00 a.m. on Monday through Saturday or on Sunday, he/she may grant permission for such work to be done within such hours or within a shorter time period during such hours, upon application being made at the time the permit for the work is issued or during the progress of the work;

(11) Noises heard within schools, public buildings, churches, hospitals. The creation of any loud and raucous noise heard within any school, public building, church or hospital, or on the grounds thereof, while in use, which interferes with the workings of such institution, or which disturbs or annoys patients in the hospital;

(12) Noises to attract attention. The use of any drum or other instrument or device to create a loud and raucous noise;

(13) Jacob brakes. The creation or emission of engine exhaust noise through the use of Jacob brakes or other similar engine compression retarding devices so as to create a loud or raucous noise, except when such devices are used as a safety device only;

(14) Motor vehicle radios and sound devices. Using, operating, or permitting to be played, any radio, music player, or audio system in a motor vehicle which produces or reproduces sound in such a manner as to cause a loud and raucous noise which is plainly audible to persons other than the occupants of said vehicle.

ARTICLE 3. Penalties for Violation of Ordinance. Pursuant to Ark. Code Ann. Section 14-54-105(4)(D), the City may prevent, abate, or remove nuisances and punish by fine or imprisonment, or both, any persons or persons found to be in violation of this Ordinance. Further, any person, owner, agent, or supervisor in charge of operating, ordering, directing, or allowing the operation or activity creating noise as prohibited in this Ordinance shall be deemed guilty of a violation of this Ordinance and subject to the penalties set forth herein.

ARTICLE 4. Exceptions. The term "loud and raucous noise," and activities enumerated herein as public nuisances, do not include noise or sound generated by the following:

- (1) Cries for emergency assistance and warning calls;
- (2) Radios, sirens, horns, and bells on police, fire, and other emergency response vehicles;
- (3) The Tontitown Grape Festival, or any gatherings, parades, rides, exhibits, or other activities associated with such;
- (4) Activities on or in municipal and school athletic facilities and on or in publicly owned property and facilities, provided that such activities have been authorized by the owner of such property or facilities or its agent;
- (5) Fire, burglar, or automobile alarms, prior to the giving of notice and a reasonable opportunity for the owner or tenant in possession of the premises or automobile served by any such device to turn off or deactivate the alarm;
- (6) Religious worship activities conducted in a permanent structure, including but not limited to bells, organs, and signing;
- (7) Locomotives and other railroad equipment, and aircraft;
- (8) Fireworks displays within such hours and conditions as may be imposed by

the issuance of the permit, or the discharging of fireworks as allowed by ordinances of the city;

EMERGENCY CLAUSE: It is hereby declared that an emergency exists, and that this Ordinance, being necessary for the health, safety, and welfare of the citizens of Tontitown, shall be effective immediately upon its passage, approval, and publication.

PASSED AND APPROVED this 6 day of July, 2004.



Daniel R. Watson

Daniel R. Watson, Mayor

ATTEST:

Frances Franco

Frances Franco, City Recorder/Treasurer

APPROVED AS TO FORM:

R. Jeffrey Reynerson, City Attorney

ROLL CALL

Names Of Those Voting YEA

Leon Zulpo

Arthur Penzo

Henry Piazza

Ken Green

Vanessa Sbanotto

Kenneth Robertson

Names Of Those Voting NAY

Absent:

none