

ORDINANCE NO. 2023-03-1037

CITY OF TONTITOWN, WASHINGTON COUNTY, ARKANSAS

**AN ORDINANCE TO AMEND AND REPLACE CHAPTER 91: NOISE REGULATIONS IN ITS ENTIRETY IN THE TONTITOWN MUNICIPAL CODE.**

**WHEREAS**, as permitted by Ark. Code Ann. §14-54-103 and Ark. Code Ann. §5-71-207, the City of Tontitown has adopted regulations to prohibit unreasonable and excessive noise codified in Chapter 91: Noise Regulations of the Tontitown Municipal Code; and

**WHEREAS**, the City Council of Tontitown has determined that it is necessary to amend and replace Chapter 91: Noise Regulations in its entirety for the purpose of providing updated regulations in order to promote commerce, sleep and repose, quality of the environment, and the use, value, and enjoyment of property; and

**WHEREAS**, after thorough review of the proposed amendments, the City Council has determined that it is necessary and in the best interest and benefit of the community to amend and replace Chapter 91: Noise Regulations in its entirety, as set forth in the attached Exhibit "A".

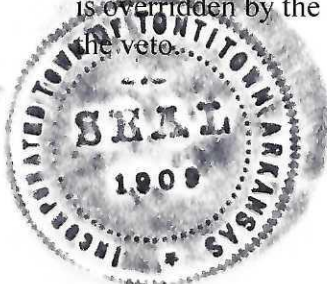
**NOW, THEREFORE, BE IT ENACTED**, by the City Council of the City of Tontitown, Arkansas:

**Section 1.** Chapter 91: Noise Regulations of the Tontitown Municipal Code is hereby amended in its entirety, as set forth in the attached Exhibit "A".

**Section 2.** The rest and remainder of the Tontitown Municipal Code not specifically amended herein remains in full force and effect.

**Section 3.** In the event that any section, paragraph, subdivision, clause, phrase, or other provision or portion of this Ordinance shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this Ordinance as a whole, or any part or provision, other than the part so decided to be invalid or unconstitutional, and the remaining provisions of this Ordinance shall be construed as if such invalid, unenforceable or unconstitutional provision or provisions had never been contained herein.

**Section 4.** Declaration of Emergency. It is hereby found and determined that Chapter 91: Noise Regulations, of the Tontitown Municipal Code should be immediately amended in order to provide clarification of terms for noise regulations within the City of Tontitown. Therefore, an emergency is declared to exist, and this act, being immediately necessary for the preservation and protection of the public peace, health, safety and welfare of the City and its citizens, shall become effective on the date of its passage and approval by the Mayor. If the Ordinance is neither approved nor vetoed by the Mayor, it shall become effective on the expiration of the period of time during which the Mayor may veto this Ordinance. If the Ordinance is vetoed by the Mayor and the veto is overridden by the City Council, it shall become effective on the date the City Council overrides the veto.

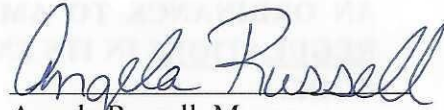


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Washington County, AR  
Kyle Sylvester Circuit Clerk


File **2023-00007055**

PASSED AND APPROVED this 21 day of March 2023.

APPROVED:

  
Angela Russell, Mayor

ATTEST:

  
Rhonda Ardemagni, City Clerk-Treasurer  
(SEAL)







### **§91.01 LOUD NOISES PROHIBITED.**

The creating or allowing of any unreasonably loud, disturbing or harmful noise within the limits of the city, including noise of such character, intensity or duration as to be detrimental to the life, health or safety of persons or animals, or in disturbance of the public peace and welfare is prohibited.

### **§91.02 PROHIBITED NOISES ENUMERATED.**

The following are declared to be noises in violation of this chapter, but this enumeration shall not be deemed to be exclusive:

- A) *Horns; signaling devices.* The repetitive sounding of any horn or signal device on any automobile, motorcycle, bus, taxicab or other vehicle while not in motion except as a danger signal if another vehicle is approaching apparently out of control, or if in motion only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; or the creation by means of any such signal device of any unreasonably loud or harsh sound; or the sounding of such device when not needed for signaling purposes, or for an unreasonable period of time shall be a violation of this article.
- B) *Playing of radios, instruments and other instruments or devices.* The playing of any sound reproduction equipment or any other kind of musical instrument or loudspeaker device which produces, reproduces, or amplifies sound between the hours of 10:00 p.m. and 8:00 a. m. (or between 11:00 p.m. and 8:00 a.m. in commercially- zoned areas on Friday and Saturday nights only; or within a public park at any time) in such a manner or with such a volume as to annoy or disturb the quiet, comfort or repose of persons in any office, hospital, dwelling, temporary rental accommodation or other type of residence or of any persons in the vicinity and is plainly audible at a distance of greater than seventy-five (75) feet from its source shall be a violation of this article. The act of playing any such instrument or device during any period of time in such a manner or with such volume as to annoy or disturb the quiet, comfort or repose of persons in any office, hospital, dwelling, hotel, temporary rental accommodation or other type of residence, or of any persons in the vicinity, is declared to be in violation of this article if any person so disturbed shall swear to and sign a police offense report against the offending party.
- C) *Yelling, shouting, or singing.* Yelling, shouting, singing or similar activity on the public property without a permit at any time or place so as to unreasonably annoy or disturb the quiet, comfort or repose of any persons in any hospital, dwelling, hotel, temporary rental accommodation or any other type of residence or of any persons in the vicinity shall be a violation of this article.
- D) *Motor vehicles.*

- (1) *Use regulations.* The use of any vehicle in such a condition or manner as to cause unreasonably loud grating, grinding, rattling or other noise shall be a violation.
- (2) *Hours.* Between the hours of 10:00 p.m. and 8:00 a.m., no person shall permit a vehicle to be parked for more than 15 minutes with the engine running in any residential area if the sound generated by the engine is plainly audible at greater than seventy-five (75) feet distance.
- (3) *Definitions.* The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this subchapter, except where the context clearly indicates a different meaning:

*Engine* shall mean all fuel-driven or electric engines or motors whatever, whether main, auxiliary or otherwise.

*Hospitals* shall include medical clinics, ambulatory surgical centers, emergency care facilities, and any facilities where dental, optician, or other medical services are furnished.

*Parked* mean stationary or substantially stationary.

*Person* shall mean any natural person, association, business or other legal entity having ownership, custody or control of the vehicle, or having ownership, control or occupancy of the land upon which the vehicle is situated.

*Place of worship* shall include a church, synagogues, mosques, temples, and other permanent places of religious worship.

*Plainly audible* shall mean any sound that can be detected by a person using his or her unaided hearing faculties. For example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the detection of the rhythmic bass component of the music is sufficient to verify plainly audible sound.

*Public Park* shall mean any piece of ground or body of water kept by the City for ornament or recreation, or any such area maintained by the City in a natural state, and any parking lots, trails, sidewalks and rights- of-way adjacent thereto.

*Residence* shall means any structure used for human habitation in a residential zone.

*Temporary rental accommodation* means any hotel, motel, bed and breakfast, boarding house, dormitory or similar lodging.

*Vehicle* means any truck, automobile, bus, train, trailer, motorcycle, tractor or any other wheeled vehicle whatsoever.

- E) *Engine exhausts.* The discharge into the open air of the exhaust of any stationary steam engine, stationary internal- combustion engine, except through a muffler or other device which effectively prevents loud or explosive noises therefrom, shall be a violation of this article.
- F) *Near schools, hospitals, places of worship or courts.* The creation of any loud, disturbing or harmful noise on any street or other property adjacent to any school, institution of learning, place of worship or court while the same is in session, or adjacent to any hospital, which unreasonably interferes with the workings or sessions of such institutions, shall be a violation of this ordinance.

### **§91.03 EXCEPTIONS.**

None of the terms or prohibitions of this article shall apply to or be enforced against any of the following conditions:

- A) Vehicles of the city while engaged upon necessary public business, or any ambulance or emergency vehicle while being operated in cases of emergency.
- B) Any bell or chime from any building clock, school or place of worship operated between the hours of 7:00 a.m. and 10: 00 p.m. and not continuing for more than five (5) minutes.
- C) City authorized events, including, but not limited to, parades, festivals, and community activities.
- D) Any domestic power equipment operated between 7:00 a.m. and 10:00 p.m.
- E) Noise from commercial construction activities between 7:00 a.m. and 7:00 p.m. Monday through Saturday.
- F) Noise generated from golf course and public park maintenance activities or operations.
- G) Fireworks discharged during such times as permitted by City Code or pursuant to a valid City permit.
- H) Activities undertaken or sanctioned by any public or private school recognized by the State of Arkansas.
- I) Emergency work or construction activity consisting of emergency work shall be permitted if conditions necessitating the emergency work were not foreseeable in advance and if authorized in advance, or ratified upon the first available business day, by the Mayor or the Mayor's designee if there is not reasonable time to receive authorization in advance.



- (1) Emergency work in this chapter shall mean any work performed for the purpose of preventing or alleviating the physical harm to a person, property damage threatened or caused by an unforeseeable emergency or event, or the threat of damage to or inhibiting of construction due to imminent and serious weather conditions that could lead to imminent danger of physical harm or trauma to a person or to property.
- (2) Emergency work that is exempt from limitations of this provision shall not be allowed on the basis of typical seasonal weather events or in foreseeable situations where weather events have caused construction delays.

### §91.03 VIOLATIONS.

*Violations.* Pursuant to Ark. Code Ann. § 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 chapter. 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 chapter shall be deemed guilty of a violation of this chapter and subject to the penalties set forth in § 10.99 of this code.

Washington County, AR  
I certify this instrument was filed on  
03/22/2023 10:54:03 AM  
and recorded in Real Estate  
File Number 2023-00007055  
Kyle Sylvester - Circuit Clerk

by 

