

ORDINANCE NUMBER 231 / 2017

AN ORDINANCE TO REGULATE NOISE IN RESIDENTIAL AREAS PROHIBITING DISTURBANCE OF THE PEACE OF THE PUBLIC OR ANY INDIVIDUAL IN THE CITY OF ASH FLAT, ARKANSAS, AND PROVIDING FOR A PENALTY FOR VIOLATION

WHEREAS, the City of Ash Flat, Arkansas desires to regulate said noise which unreasonably disturbs, injures, or endangers the comfort, tranquility, health, peace or safety of others within the limits of the city; and

WHEREAS, the City of Ash Flat, Arkansas finds that certain noises affecting individuals on residential, and non-residential property constitutes a public nuisance; and

WHEREAS, the City of Ash Flat, Arkansas is authorized to enforce ordinances necessary to protect health, life, and property and to preserve good government, the order, and security of the inhabitants as well as abatement of public nuisances.

THEREFORE BE IT ORDAINED BY THE CITY OF ASH FLAT:

SECTION 1.

- (a) That if any person willfully or maliciously disturbs, either by day or night, the peace and quiet of the City of Ash Flat, or any family or neighborhood, by loud or unusual noise, which are offensive, render enjoyment of property uncomfortable or interfere with public peace and comfort, or by abusive, violent or profane language whether addressed to the party disturbed or some other person or persons, or by threatening to fight, quarreling or challenging to fight or fighting, or shooting off any fire arms (currently prohibited under Ordinance #9-11-89, Discharge of Firearms within city limits prohibited)
- (b) That if any person willfully or maliciously disturbs, either by day or night, the peace and quiet of the City of Ash Flat, or any family or neighborhood, by the use of fireworks, which are offensive, render enjoyment of property uncomfortable or interfere with public peace and comfort. (Exemption: the use of fireworks during the period of June 20th through July 5th will be allowed until 10:30 p.m. for the celebration of the July 4th Holiday. This exception will in no way release a party from violation of this ordinance if the use of fireworks during this period is for the purpose of willful maliciousness or harassment.)
- (c) Any commercial business operating during normal business hours shall be exempt from this ordinance.

SECTION 2. LOUD AND OFFENSIVE NOISES DEFINED

The following acts, among others, are declared to be loud disturbing and unnecessary noises in violation of the Ordinance, but said enumeration shall not be deemed to be exclusive, namely:

- A. **Horns, Signaling Devices, Etc.** The sounding of any horn, signaling device or engine on any automobile, motorcycle, or other vehicle on any street or public place of the city, except as a danger warning; the creation by means of any such signaling device of any unreasonable loud or harsh sound; and the sounding of any device for an unnecessary and unreasonable period of time.
- B. **(1.) Radios, phonographs, etc.:** The using, operating, or permitting to be played, used or operated any audio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants or any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machines or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine, or device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of 50 feet from the building, structure, or vehicle in which it is located shall be prima facie evidence of a violation of this section.
(2.) Loud speakers, Amplifiers: The using, operating or permitting to be played, used or operated any audio receiving set, musical instrument, phonograph, loud speaker, sound amplifier, or other machine or device for the purpose of reproducing of sound.
(3.) EXEMPTION: A permit may be issued by the city for any festival, celebration, or other gathering for use during a specified time period and in a specific area, to allow for the use of these items in conjunction with the function for providing music or amplifying of voices or other sounds as needed and where approved.
- C. **Yelling, Shouting, Etc.:** Yelling, shouting, hooting, whistling, or singing on the public street, particularly between the hours of 10:00 p.m. and 7:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort, or tranquility of persons in any dwelling or other type of residence, or any persons in the vicinity.
- D. **Animal Noises, Barking, Etc.:** Animal noises of such loudness intensity, and duration as to prevent or interfere with a person's ability to enjoy his/her property, including, but not limited to, situations where on more than one (1) occasion has awakened the complainant up from sleep, or continues in such a manner so as to cause mental anguish or suffering, loss of sleep, or a disturbance of the peace by the continued barking, yipping, whining, howling, or yelping of dog(s), and or puppies.
- E. **Domesticated Animals, Birds, Etc.:** The keeping of any and all domesticated animals, or bird which is causing frequent or long continued noise shall disturb the quiet, comfort, or repose of persons in any dwelling or other type of residence, or any persons in the vicinity.

- F. **Agricultural Animals:** Livestock or farm animals are exempt from this ordinance.
- G. **Commercial Businesses:** This ordinance does not pertain to commercial businesses and are hereby exempt from the provisions of this ordinance.
- H. **Exhausts:** The discharge into the open air of the exhaust of any stationary internal combustion engine, motor boats, motor cycles, or motor vehicles except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- I. **Construction or Repairing of Buildings:** The erection (including excavation), demolition, alteration, or repair of any building other than between the hours of 7:00 a.m. and 10:00 p.m. on weekdays, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the Building Inspector, which permit may be granted for a period not to exceed three (3) days or less while the emergency continues, and which permit may be renewed for periods of three (3) days or less while the emergency continues. If the Building Inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways with the hours of 10:00 p.m. and 7:00 a.m., and if he shall further determine that loss of inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of 10:00 p.m. and 7:00 a.m. upon application being made at the time the permit for the work is awarded or during the progress of the work.
- J. **Blowers:** The operation 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 noise.

SECTION 3. VIOLATION: Any person, firm, or corporation who violates any provision of this Ordinance is guilty of a misdemeanor, and upon conviction is punishable by a fine. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

- a. **First Offense:** A fine not to exceed \$100.00 for the first offense plus court costs;
- b. **Second Offense:** A fine not to exceed \$250.00 for the second offense plus court costs.
- c. **Third Offense:** A fine not to exceed \$350.00 for the third offense plus court costs.
- d. **Fourth Offense:** A fine not to exceed \$500.00 for the fourth and any subsequent offenses plus court costs.

SECTION 4. SEVERABILITY: The various provisions and parts of this Ordinance are hereby declared to be severable, and, if any section or part of a section, or any provision or part of a provision herein, is declared to be unconstitutional, inappropriate, or invalid by any court of competent jurisdiction, such holding shall not invalidate or affect the remainder of this Ordinance and to that extent the provisions hereto are declared to be severable.

SECTION 5. All ordinances or parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

IN WITNESS WHEREOF, the City of Ash Flat City Council, did pass, approve, and adopt, by a vote of 6 for and 0 against, the foregoing Ordinance during a Regular Meeting held on this the 19th day of December, 2017.



LARRY FOWLER, MAYOR

ATTEST:



CHARLOTTE GOODWIN, RECORDER/TREASURER

