

ORDINANCE NO. 4496

**AN ORDINANCE AMENDING THE NOISE ORDINANCE
OF THE CITY OF SPRINGDALE, ARKANSAS.**

WHEREAS, the City Council for the City of Springdale, Arkansas finds that excessive levels of sound are detrimental to the public health, welfare, safety, and quality of life of the residents and visitors to the City of Springdale, Arkansas;

WHEREAS, the City Council declares it to be necessary to provide for the greater and more effective regulation of excessive sounds by amending the current noise ordinance of the City of Springdale, Arkansas;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF SPRINDGALE, ARKANSAS, that the Noise Ordinance of the City of Springdale, Arkansas is amended as follows:

Section 1. The following sections of the Noise Ordinance of the City of Springdale, Arkansas, are deleted in their entirety:

~~Sec. 42-51. Loud noise prohibited~~

~~It shall be unlawful for any person to willfully make, continue or cause to be made or continued any loud and raucous noise, which term 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. The term shall be limited to loud and raucous noise heard upon the public streets, in any public park, in any school or public building or upon the grounds thereof while in use, in any church or hospital or upon the grounds thereof while in use, upon any parking lot open to members of the public as invitees or licensees, or in any occupied residential unit which is not the source of the noise or upon the grounds thereof.~~

~~Sec. 42-52. Acts deemed public nuisance.~~

~~The following acts, as limited by section 42-51 and subject to the exceptions provided in section 42-54 are declared to be public nuisances in violation of section 1-9:~~

~~(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 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) — *Sound trucks.* No amplifier or loudspeaker in, upon or attached to a sound truck or other device for amplifying sound shall be operated or permitted to operate within the city for advertising purposes 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 case of urgent necessity in the interest of public health and safety and then only with a permit from the chief city inspector, 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 chief city inspector 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 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. The city council may grant permits to allow 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 or within a shorter time period during such hours in situations deemed necessary by the city council and for periods determined by the city council.~~

~~(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 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) — *Engine brakes.* The creation or emission of engine exhaust noise through the use of "engine 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 and except when used by an emergency vehicle.~~

~~(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.~~

~~Sec. 42-53. Person responsible for violation.~~

~~Any person, owner, agent or supervisor in charge of operating, ordering, directing or allowing the operation or activity creating noise as prohibited in section 42-51 shall be deemed guilty of a violation of this article and subject to the penalties set forth in section 1-9 of this Code.~~

Sec. 42-54. Exceptions to article.

The term "loud and raucous noise" does 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) — Rodeo of the Ozarks and Rodeo of the Ozarks Parade.~~
- ~~(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 alarms and burglar alarms, prior to the giving of notice and a reasonable opportunity for the owner or tenant in possession of the premises served by any such alarm to turn off the alarm.~~
- ~~(6) — Religious worship activities conducted in a permanent structure, including but not limited to bells and organs.~~
- ~~(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 discharging of fireworks as allowed by ordinances of the city.~~

Section 2. The following sections (Sec. 42-51 through 42-54) are hereby adopted by the City Council for the City of Springdale, Arkansas as follows:

Sec. 42-51. Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Ambient Sound Level. The total sound pressure in the area of interest including the source of interest.

A-weighting. The electronic filtering in sound level meters that model human frequency sensitivity.

dBA. The A-weighted unit of sound pressure level

Decibel (dB). The unit for measurement for sound pressure level at a specified location.

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.

Noise Disturbance.

1. The creating of any unreasonably loud and disturbing sound of such character, intensity, or duration as to be detrimental to the life or health of an individual, or which annoys or disturbs a reasonable person of normal sensitivities.
2. Owning, keeping, possessing, or harboring any animal or animals that continuously, repeatedly, or persistently, without provocation by the complainant, creates a sound which unreasonably disturbs or interferes with the peace, comfort or repose of persons of ordinary sensibilities.

Sound. A temporal and spatial oscillation in pressure, or other physical quantity in a medium with internal forces that causes compression and rarefaction of that medium, and which propagates at finite speed to distant points.

Sound Amplification Device. Radio, radio receiving set, television, stereo, tape player, cassette player, compact disc player, "boom box," loud speaker, musical instrument, sound amplifier or other devices which produces, reproduces, or amplifies sound.

Sound Level. The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as (a), (b), or (c) as specified in the American National Standards Institute's specification for sound level meters. If the frequency weighting employed is noted indicated, the A-weighting shall apply.

Sound Level Meter. An instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, or output meter, and weighting network used to measure sound pressure levels.

Sound Pressure Level. 20 multiplied by the logarithm, to the base of 10, of the measured sound pressure divided by the sound pressure associated with the threshold of human hearing, in units of decibels.

Sec. 42-52. Unreasonable or excessive noise prohibited.

Notwithstanding any other provisions of this chapter, and in addition thereto, it shall be unlawful for any person to make, or continue to cause or permit to be made or continued, any noise disturbance.

Sec. 42-53. Measurements.

Sound level measurements shall be made with a sound level meter type-2 or better using the A-weighted scale in conformance with the standards promulgated by the American National Standards Institute.

Sec. 42-54. Limitations by land use category.

1. 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 within the use districts in Table 1 below which exceeds the maximum noise levels as set forth in Table 1, which shall be measured for violations at the property line from which the sound is emanating, as well as at the property line of the receiving property. When a sound source can be identified and measured in more than one use district, the sound level limits of the most restrictive use district shall apply at that district boundary. All complaints will be measured with sound level measuring equipment by the responding officer to a complaint.

TABLE 1

<u>Use Districts</u>	<u>Time</u>	<u>Maximum Noise Levels</u>
<u>All residential zones</u>	<u>7:00 a.m. to 11:00 p.m.</u>	<u>65 dB(A)</u>
<u>All residential zones</u>	<u>11:00 p.m. to 7:00 a.m.</u>	<u>60 dB(A)</u>
<u>All commercial zones</u>	<u>7:00 a.m. to 11:00 p.m.</u>	<u>75 dB(A)</u>
<u>All commercial zones</u>	<u>11:00 p.m. to 7:00 a.m.</u>	<u>70 dB(A)</u>
<u>All industrial zones</u>	<u>7:00 a.m. to 11:00 p.m.</u>	<u>85 dB(A)</u>
<u>All industrial zones</u>	<u>11:00 p.m. to 7:00 a.m.</u>	<u>80 dB(A)</u>

2. Construction sites will be considered as an industrial zone for purposes of this ordinance.
3. Nightclubs and restaurants will be considered as commercial zoning for purposes of this ordinance.
4. If the Chief Building Inspector shall determine that the public health and safety necessitates the issuance of an emergency permit allowing the erection, demolition, alteration, or repair of any building or the excavation of any building when such work might exceed sound levels found in Table 1, an emergency permit shall be issued. Such emergency permit shall not exceed 14 days' duration.

Sec. 42-55. Sounds from vehicles.

1. It is unlawful to operate any sound amplification device from within a vehicle so that the sound is plainly audible at a distance of 30 feet or more from the vehicle, whether in a street, a highway, an alley, parking lot or driveway, whether public or private property, and such is declared to be a noise disturbance in violation of this chapter.
2. A compression release engine brake, or other hydraulically operated device that converts a power producing diesel or gas engine into a power absorbing retarding mechanism with a correspondingly increased amount of noise emission shall not be engaged or used within the city limits of Springdale, except in the case of failure of the service brake system, adverse weather conditions, or other emergency necessitating the compression release engine brake's use.

Sec. 42-56. Penalties.

Any person convicted of violating the provisions of this chapter shall be fined as follows:

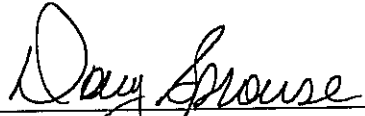
1. For the first offense, the person shall be fined not less than \$150.00 or more than \$250.00.
2. For the second offense, the person shall be fined not less than \$500.00 or more than \$1,000.00.
3. For the third offense, the person shall be fined not less than \$2,000.00.

Sec. 42-57. Exceptions to chapter.

The following are exceptions to this chapter and such sounds do not constitute a noise disturbance:


1. Cries for emergency assistance and warning calls;
2. Emergency response vehicles;
3. Events sponsored by the Rodeo of the Ozarks held at Parsons Stadium.
4. Rodeo of the Ozarks parade;
5. Activities conducted on or in municipal facilities which are approved, sponsored or sanctioned by the city, but this does not apply to lessees at Shiloh Square who use an amplification sound device;
6. Activities conducted on or in school facilities which are approved, sponsored or sanctioned by the school;
7. Fire alarms and burglar alarms;
8. Religious worship activities conducted in a permanent structure in a P-1 zone;
9. Fireworks displays authorized by the city.

PASSED AND APPROVED this 26th day of April, 2011.



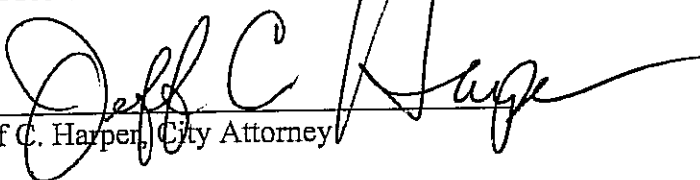
Doug Sprouse, Mayor

ATTEST:



Denise Pearce, City Clerk

APPROVED AT TO FORM:



Jeff C. Harper, City Attorney