ORDINANCE 12 – 2007

AN ORDINANCE FOR NOISE CONTROL IN THE TOWN OF BAUXITE, ARKANSAS, INCLUDING DEFINITIONS, EXCEPTIONS AND PENALTIES; DECLARING AN EMERGENCY.

WHEREAS, the Town Council of the Town of Bauxite, Arkansas (Town) has deemed it necessary to establish a Noise Control Ordinance in the Town.

Section 1. Definitions

A. *Decibel* (dB) – A unit for measuring the volume of a sound, equal to 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).
B. *Emergency* – Any occurrence or set of circumstances involving actual or imminent physical trauma of property damage, which demands immediate action.
C. *Emergency work* – Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.
D. *Gross vehicle weight rating* (GVWR) – The value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR) which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination engaged in interstate commerce.
E. *Motor carrier vehicle engaged in interstate commerce* – Any vehicle for which regulations apply pursuant to Section 18 of the Federal Noise Control Act of 1972 (PL92-574), as amended, pertaining to motor carriers engaged in interstate commerce.
F. *Noise* - Any sound which annoys or disturbs humans of which causes or tends to cause and adverse psychological or physiological effect on humans.
G. *Noise disturbance* – Any sound which:
    (1) Endangers or injurer the safety or health of humans or animals;
    (2) Annoys or disturbs a reasonable person of normal sensitivities; or
    (3) Endangers of injuries personal or real property.
H. *Public right-of-way* – Any street, avenue, boulevard, highway, sidewalk or alley or similar place, which is owned or controlled by a government entity.
I. *Public space* – Any real property or structures thereon which are owned or controlled by a governmental entity.
J. *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.
K. *Sound pressure level* – Twenty times the logarithm to the base ten of the ratio of the RMS dectector. Integrator or time average, or output meter, and weighing network used to measure sound pressure levels.
L. *Sound pressure levels* – Twenty times the logarithm to the base ten of the ratio of the RMS sound pressure to reference pressure of 20 micropascals (20 x 10 –6 N/m 2).
M. *Transient sound source* – Noise, the source of which is lawn equipment, an implement of husbandry, a domestic power tool, or the repairing, rebuilding, modifying or testing of any motor vehicle or motorcycle.

Section 2. Unreasonable or Excessive Noise Prohibited; Exceptions

A. Notwithstanding any other provision of this ordinance and in addition thereto, it shall be unlawful for any person to make, or continue or cause or permit to be made or continued, any noise disturbance,
B. The provisions of section shall not apply to:
    (1) The emission of sound for the purpose of alerting persons to the existence of an emergency;
    (2) The emission of sound in the performance of emergency work;
    (3) The movement of aircraft which is in all respects conducted in accordance with, or pursuant to applicable federal laws or regulations;
    (4) The use of bells or chimes in conjunction with places of religious worship; and
    (5) 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. For the purpose of this section, the use of an amplification devise, radio, television, phonograph, drum, musical instrument or similar devise which produces, reproduces, or amplifies sound shall be deemed annoying or disturbing to a person, reasonably calculated to disturb the peace and unreasonably offensive and injurious to the public if the sound is produced between the hours of 10:00pm and 7:00am, and is plainly audible from the property line or more from the source of the sound.
    (1) Plainly Audible means any sound produced as set forth above which clearly can be heard from the property line or more. The measurement standard shall be by the auditory senses, based on direct line of site. Words or phrases need not be discernable and bass reverberations are included.
    (2) This provision shall not apply to athletic or school related events.

Section 3. 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 promulgated by the American National Standards Institution.

Section 4. Limitations by Land Use Category

A. No person shall operate or cause to 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 as measured at any point on the boundary of the property from which the sound or noise was emanating.

TABLE 1

Use Districts	Time	Maximum Noise levels
All residential zones R-1, R-2 & R-3	7:00am to 10:00pm	60 dB(A)
All residential zones R-1, R-2 & R-3	10:00pm to 7:00am	55 dB(A)
All commercial Zones C-1 & C-2	7:00am to 10:00pm	75 dB(A)
All commercial Zones C-1 & C-2	10:00pm to 7:00am	70 dB(A)
All industrial zones I-1 & I-2	7:00am to 10:00pm	80 dB(A)
All industrial zones I-1 & I-2	10:00pm to 7:00am	75 dB(A)

All measurements shall be taken with a sound level meter in its fast or peak level setting.

B. District boundaries – When a noise source can be identified and its noise measured in more than one use district, the noise level limits of the most restrictive use district shall apply at that district boundary.

C. Commercial source – Notwithstanding the zoning classification of the underlying parcel, restaurants, nightclubs, private clubs, auditoriums, dance halls, and rehearsal studios are defined as commercial sound sources existing in commercial zones for the purposes of the ordinance.

D. Transient source – For a transient sound emanating in any land use category, the peak noise level shall not exceed 20 decibels above the limit set in Table 1 above.

E. Construction – Construction projects shall be subject to the limitations specified for industrial zones for the period of time allowed by the building permit.

Section 5. Motor Vehicle and Motorcycle sound limit

A. No person shall operate or cause to be operated a public or private motor vehicle on motorcycle on a public right-of-way or private property at any time and in such manner that the sound level emitted by the motor vehicle or motorcycle exceeds the level set forth in Table II below.

TABLE II

MOTOR VEHCILE AND MOTORCYCLE SOUND LIMIT

(Measured at 25 feet from the near side of the nearest lane monitored)

Vehicle class	Speed limit 25mph or less	Speed limit over 25mph	Stationary Run-up
Motor vehicle carrier engaged in interstate commerce of GVWR or GCWR of 10,000 lbs or more	86	90	88
Any other motor vehicle or any combination of vehicles towed by any such motor vehicles.	78	78	78
Motorcycles	78	78	78

B. No person shall operate or cause to be operated any motor vehicle or motorcycle not equipped with a muffler or other sound dissipative device in good working order and in constant operation.

C. No person shall sound any horn or other auditory signaling device on or in any motor vehicle on any public right-of-way or public place, except as a warning of danger.

D. Operating or causing to operate and 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, is prohibited and declared to be a noise disturbance in violation of this ordinance.

Section 6. Radios and Loudspeakers used for certain purposes prohibited

It shall be unlawful for any person to use, operate or permit to played, used or operated any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon public streets from a point of origin located on private property, for the purpose of commercial advertising or attracting the attention of the public to any building or structure.

Section 7. Permit for Variance

A. Application; issuance.

(1) The mayor shall have the authority to issue a permit, upon a showing of undue hardship, for a variance from the provisions of this section upon a showing by the applicant that:

(a) Additional time is necessary for the applicant to alter or modify his activity or operations to comply with this section; or

(b) The activity, operation or noise source will be of a temporary duration and cannot be done in manner that would comply with section; and

(c) No reasonable alternative is available to the applicant.

(2) An application for a variance permit shall be in writing on a form prescribed by the mayor. In issuing a variance permit, the mayor may impose reasonable conditions or requirements necessary to minimize adverse effects upon the surrounding neighborhood. For events to be attended by the public, the written application for a variance shall be filed with the mayor a minimum of 14 days prior to the date on which a variance is requested.

B. Denial; appeal – An applicant who is denied a variance by the mayor may appeal to the Bauxite Town Council by filing written notice of appeal with the recorder/treasurer within 10 days from the date of the mayor's decision. The notice of appeal shall specifically state the reasons why the applicant considers the mayor's findings and decision to be in error.

Section 8. Penalty

A. The first violation of this ordinance will be a verbal warning.

B. Any other violations will be have fines as follows;

(1) dB(A) of up to 10 more than specified in this ordinance will be not less than $150.00 per violation.

(2) dB(A) of 11 more than specified up to 20 dB(A) will be not less than $225.00 per violation.

(3) dB(A) of 21 more than specified and up will be not less than $500.00 per violation.

WHEREAS, it is hereby determined by the Town Council of the Town of Bauxite, Arkansas, that an emergency exist and this ordinance, being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

Adopted this day 16 of July, 2007

ATTEST

Gary Duncan

MAYOR GARY E. DUNCAN

Brenda Hendrix

RECORDER/TREASURER BRENDA HENDRIX

SEAL