Lamar County Noise Ordinance

Section 100-Violations

(1) It shall be unlawful and punishable as provided in herein, for any person within the unincorporated areas of the county to violate any of the provisions of this article.

(2) It shall be unlawful for any person to make, continue or cause to be made or continued any loud, unnecessary or unusual noise which unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others in the unincorporated areas of the county.

Section 200-Enumeration of prohibited noise

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this article; but this enumeration shall not be deemed to be exclusive:

(1) *Radios, phonographs, cassette and compact disc players, musical instruments.* The using, operating or permitting to be played, used or operated, of any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is reasonably necessary for convenient hearing for the person who is in the room, vehicle or chamber in which this machine or device is operated and who is a voluntary listener thereto is prohibited. The operation of the set, instrument, phonograph, or other machine or device, between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to as to exceed 65 decibels or is 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 paragraph.

(2) *Loudspeakers, amplifiers for advertising.* The using, operating or permitting to be played, used or operated, of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the purpose of producing or reproducing sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure is prohibited. Announcements over loudspeakers can only be made by the announcer in person and without the aid of any mechanical device.

(3) *Operation of motor vehicles, motorcycles, all-terrain vehicles, motor driven cycles and mopeds, racing lawn mowers or any other motorized vehicles.* The operation of motor vehicles, including, but not limited to, cars, trucks, motorcycles, all-terrain vehicles, motor driven cycles, and mopeds, in a manner that creates excessive noise, including the continuous riding of any such vehicle past, around or near an inhabited dwelling place, so as to disturb or unduly annoy the inhabitants is prohibited. The average decibel level shall not exceed 65 decibels.

(4) *Outdoor Concerts after 10:00 p.m.*

Section 300-Inspections

Provided permission is granted from the occupant, any county enforcement officer has the power, upon presentation of the proper credentials, to enter and inspect any single-family dwelling, multifamily dwelling, building, structure or premises within the unincorporated areas of the county as may be necessary to enforce the provisions of this article. If such permission is refused, or is otherwise unobtainable, a search warrant must be obtained upon the showing of

probable cause to believe that a violation of this article may exist, before such entry or inspection is made.

Section 400-Exceptions

The provisions of this section shall not apply to or be enforced against:

(1) Any vehicle of the county while engaged in necessary public business.

(2) Excavations or repairs of streets by or on behalf of the county or state at night when public welfare and convenience renders it impossible to perform this work during the day.

(3) Organized school-related programs, activities, events or parades or other public programs, activities or events authorized by the county or sheriff's office.

(4) Noises resulting from emergency work, to be construed to mean work made necessary to restore property to a safe condition following a public calamity, or work required to protect persons or property from imminent exposure to danger.

(5) Noises related to an agricultural and/or silviculture use on a property.

(6) Concerts

(7) All construction activity

(8) High School bands

Section 500-Variances

(1) The Board of Supervisors shall have the authority, consistent with this article, to grant variances.

(2) Any person seeking a variance pursuant to this article shall file an application with the Lamar County Planning Department. The application shall contain information that demonstrates that bringing the source of sound into compliance with this article would constitute an unreasonable hardship on the applicant, on the community, or on other persons. Any individual who claims to be adversely affected by allowances of the variance may file a statement with the planning department containing any information to support such individual's claim. The planning department shall forward the application and any responsive statements to the Board of Supervisors for its consideration.

(3) In determining whether to grant or deny the application, the Board shall balance the hardship to the applicant, the community, and other persons of not granting the variance against the adverse impact on the health, safety, and welfare of other persons affected by the granting of the special variance.

(4) Applicants for variances may be required to submit any information the planning department may reasonably require.

(5) Variances shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the variance shall terminate it and subject the person holding it to those provisions of this article regulating the source of sound or activity for which the special variance was granted.

(6) Application for extension of time limits specified in variance or for modification of other substantial conditions shall be treated like applications for an initial variance.

(7) Enforcement of this article shall be stayed as to any person filing an application for a variance pursuant to this section, until such time as the application is acted upon by the appeals board.

Section 600-Enforcement

The Lamar County Sheriff's Department or Development Official shall have primary enforcement responsibility for violations of this Article.

A violation of this Ordinance shall be considered a misdemeanor subject of a fine not to exceed $100 per offense. Each day the violation continues shall be considered a separate offense.

Lamar County reserves the right to obtain a restraining order or injunction.

Section 700- Severability

It is hereby declared to be the intention of the Board of Supervisors that the sections, paragraphs, sentences, clauses and phrases of this Article are severable and if any section, subsection, sentence, or clause of this Article is adjudged to be unconstitutional or invalid, such adjudication shall not affect the validity of the remaining portions of this Article. It is hereby declared that this Article would have been passed, and each section, subsection, sentence, or clause hereof, irrespective of the fact that any one or more sections, subsections, sentences, or clauses might be adjudged to be unconstitutional or for any other reason invalid.

Section 800-This Ordinance repeals and replaces any previous Noise Ordinances for Lamar County.

Section 900-The Lamar County Board of Supervisors reserves the right to amend this Ordinance in the future as needed.

So order and adjudicated on January 17, 2013

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Joe Bounds, President Lamar County Board of Supervisors

ATTESTED:

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Wayne Smith, Chancery Clerk DATE: