

ORDINANCE NO. 367

**AN ORDINANCE ADOPTING AND ENACTING  
A NEW SECTION OF GREENLAND MUNICIPAL CODE  
TITLE 7 AND ADDING A CHAPTER TITLED NOISE**

WHEREAS, the City Council desires to modify the City's Municipal Code by adding a chapter under Title 7 that would govern noise in the City of Greenland, and the City Council believes it is in the best interest of the citizens of Greenland to amend the code, and

WHEREAS, this new chapter will be entitled Chapter 7.29 – Noise, and

WHEREAS, the City Council's motives for this amendment are as follows: create a clear set of rules and regulations for the City of Greenland to ensure its citizens are not bothered by unnecessary noise pollution which will enrich the City's community feel.

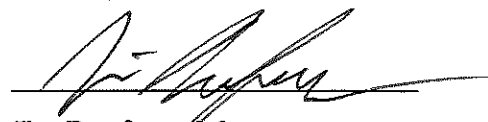
NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF GREENLAND, ARKANSAS:

**SECTION 1.** That Greenland Municipal Code, Greenland, Arkansas, is hereby amended by adding "Chapter 7.29 - Noise –" to the existing Chapters listed under Title 7 of the preexisting code and Chapter 7.29 in its entirety for the purpose of this ordinance is listed as "exhibit A".

**SECTION 2. REPEALER:** All ordinances or parts of ordinance in conflict herewith are hereby repealed to the extent of the conflict.

**SECTION 3. SEVERABILITY:** If any section, paragraph, subdivision, clause, phrase, or provision 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.

PASSED AND APPROVED this 14<sup>th</sup> day of August 2023.

  
Jim Renfrow, Mayor

ATTEST:

Misty McCard

Misty McCard, City Recorder/Treasurer

## CHAPTER VII

### NOISE

#### Sections:

7.29.01	Definitions
7.29.01	Unlawful Noises
7.29.02	Noises in Violation
7.29.03	Amplifiers
7.29.04	Motor Vehicular Noise
7.29.05	Exemptions
7.29.06	Fine

#### 7.29.01 Definitions

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**Compression Release Engine Brake.** An engine braking mechanism installed on some diesel engines. When activated, it opens exhaust valves to the cylinders, right before the compression stroke ends, releasing the compressed gas trapped in the cylinders, and slowing the vehicle.

**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).

**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.

**Exhaust Brake.** A means of slowing a diesel engine by closing off the exhaust path from the engine, causing the exhaust gases to be compressed in the exhaust manifold, and in the cylinder. Since the exhaust is being compressed, and there is no fuel being applied, the engine slows down the vehicle. The amount of negative torque generated is usually directly proportional to the back pressure of the engine.

**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 vehicle, shall be used. A motor carrier vehicle engaged in interstate commerce is 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.

**Motor vehicle noise.** Noise which comes from a personal vehicle or motorcycle or commercial vehicle.

**Noise.** Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

**Noise disturbance.** Any sound which:

- (1) Endangers or injures the safety or health of humans or animals;
- (2) Annoys or disturbs a reasonable person of normal sensitivities; or
- (3) Endangers or injures personal or real property.

**Public right-of-way.** Any street, avenue, boulevard, highway, sidewalk or alley or similar place which is owned or controlled by a government entity.

**Public space.** Any real property or structures thereon which are owned or controlled by a governmental entity.

**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.

**Sound level meter.** An instrument which includes a microphone, amplifier, RMS detector, integrator or time average, or output meter, and weighing network used to measure sound pressure levels.

**Sound pressure level.** Twenty times the logarithm to the base ten of the ratio of the RMS sound pressure to reference pressure of 20 micropascals ( $20 \times 10^{-6} \text{ N/m}^2$ ).

**Transient sound source.** Noise, the source of which is lawn equipment, a domestic power tool, or the repairing, rebuilding, modifying or testing of any motor vehicle or motorcycle.

7.29.01 **Unlawful Noises.** It shall be unlawful for any person to make, continue or cause to be made or continued any loud, unnecessary or unusual noise which either annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others within the limits of the City. (Ord. No. \_\_\_\_\_)

7.29.02 **Noises In Violation.** The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this ordinance, but said enumeration shall not be deemed to be exclusive, namely:

- A. The playing of any radio, phonograph, or other musical instrument in such manner or with such volume, particularly between the hours of 10:00 p.m. and 7:00 a.m. in any zone, as to annoy or disturb the quiet, comfort or repose of persons in any office, hospital, residential dwelling, hotel, or other type of residence or of any person in the vicinity. For special activities in residential areas where the hours may exceed those specified herein, application must be made to the City for a "special event" permit.

Such permit must be issued by the City prior to the commencement of the activity. Failure to obtain such permit shall constitute good cause for the immediate termination of the event by the City.

- B. Sound plainly audible from 50 feet or more from the boundary line of any private property is prohibited. Plainly audible means any sound produced as set forth above which clearly can be heard at a distance of 50 or more feet. The measurement standard shall be by the auditory senses, based on direct line of sight. Words or phrases need not be discernable and bass reverberations are included.
- C. The keeping of any animal, bird, or fowl which by causing frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity.
- D. The creation of any excessive noise on any street adjacent to any school, institution of learning, church, or court while the same is in session, or adjacent to any hospital, which unreasonably interferes with the workings of sessions thereof.
- E. The use of any drum, loud speaker, or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show, or sale or display of merchandise.
- F. The use of mechanical loud speakers or amplifiers on trucks or other moving or standing vehicles for advertising or other purposes. (See Exemptions Section)
- G. The State can investigate any holder of an Alcoholic Beverage Control permit for excessive noise or loud music that constitutes a disturbance of the public peace under its "good neighbor" clause.

7.29.03 Amplifiers. None of the terms or prohibitions of Section A shall apply to the reasonable use of amplifiers or loud speakers in the course of public address which are non-commercial in character. Public address systems are restricted to 8 a.m. to 8 p.m. Monday through Saturday in residential areas, and from 8 a.m. to 10 p.m. Monday through Saturday in commercial areas. (Ord No. \_\_\_\_\_)

7.29.04 Motor Vehicular Noise. The following acts are declared to be a public nuisance, but the enumeration of the particular offenses hereinafter particularly defined shall not be construed as limiting the generality of this ordinance, or limiting the offense hereunder to the particular offense hereinafter enumerated:

- A. The continuous or repeated sounding of any horn or signal device of a motor vehicle when not used as a danger signal. Continuous shall be defined to include unnecessary or unreasonable periods of time.
- B. The use of any motor vehicle with or without the attachment of various appurtenances thereto so as to create loud or unnecessary grating, grinding, rattling, or other noise of noises. This shall include the use of any vehicle said use of which causes excessive noise as a result of a defective or modified exhaust system, or as a result of unnecessary rapid acceleration, deceleration, revving the engine, or tire squeal.

- C. 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.
- D. 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.
- E. Operating or causing to operate any sound amplification device 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 chapter.
- F. No person shall operate or cause to be operated a motor vehicle or motorcycle by rapidly advancing its throttle (revving) such that a noise disturbance occurs.
- G. Compression Release Engine Brakes and Exhaust Brakes within the city limits shall not be engaged or used within the city limits of Greenland 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 (Ord. \_\_\_\_\_). Fire trucks and those municipal vehicles equipped with Quiet Brake and Silent Partner System are exempted from the requirements of this section.

7.29.05 Quiet Hours.

- A. Late Night Construction Noise Near Residences For the purposes of this section, construction noise from private development construction activity 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 or noise is produced later than 10:00 p.m. everyday and prior to 7:00 a.m. on all days and is plainly audible at or near any residence (apartment, home, condo, etc.) within 150 feet of the construction activity.
  - 1. The measurement standard shall be by auditory senses and includes transient construction activity noise sources.
  - 2. Emergency construction activity to repair or prevent a dangerous condition in order to protect the health, safety and welfare of Greenland citizens or the workers on the development project site is exempt from this provision if authorized in advance or ratified later by the Mayor
- B. Business Operations Near Residential Areas: For purposes of this section, businesses which operate adjacent to or in close proximity of residential housing must have adequate measures in place to limit outdoor noise during "quiet hours" as specified above.

7.29.06 Exemptions. The following exemptions shall apply, unless there is determined by the City to be violations in the use of the exempted activities (i.e., violation of hours, etc):

- A. Outdoor and mobile food vendors shall not be included in this section, but such activity may only be conducted between the hours of 10:00 a.m. until 30 minutes before sunset.
- B. Seasonal fireworks displays
- C. Special Permit or Event Permit holders
- D. Athletic or school events
- E. The use of bells or chimes in conjunction with places of religious worship
- F. Any commercial facility whose primary business is the production, display and promotion of musical events and whose permanent facility and primary structure has been designed and built with such inherent architectural, design, landscape and topography measures as to reduce sound to minimally intrusive levels.
- G. Sound emitted from sirens of authorized emergency vehicles.
- H. Lawn mowers, garden tractors, and similar home power tools when properly muffled, between the hours of 7:00 a.m. and 9:00 p.m.
- I. The emission of sound for the purpose of alerting persons to the existence of an emergency.
- J. 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.
- K. The movement of aircraft or trains which is in all respects conducted in accordance with, or pursuant to applicable federal laws or regulations;
- L. The emission of sound in the performance of emergency work;
- M. Backup warning signals used by heavy equipment and commercial vehicles

7.29.07 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.

Table 1		
Use/District	Time	Max Noise Level
All Residential Zones	7:00 a.m.– 10:00 p.m.	60 dB(A)
All Commercial Zones	7:00 a.m.– 10:00 p.m.	75 dB(A)
All Industrial Zones	7:00 a.m.– 10:00 p.m.	80 dB(A)

Table 2-		
Use/District	Time	Max Noise Level
All Residential Zones	10:00 p.m. – 7:00 a.m.	55 dB(A)
All Commercial Zones	10:00 p.m. – 7:00 a.m.	70 dB(A)
All Industrial Zones	10:00 p.m. – 7:00 a.m.	75 dB(A)

The Mayor or appointed designee shall either 1) take such measurements with a sound level meter in its fast or peak level setting; or 2) in cases where the level clearly violates the dB(A) level established, the measurement standard may be by auditory senses and include transient construction activity noise sources.

- A. 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.
- B. 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.
- C. Construction: Construction projects shall be subject to the limitations specified for industrial zones for the period of time allowed by the building permit.
- D. Motor Vehicles and Motorcycles: The following measurement table shall apply:

Vehicle Class	Speed Limit 35mph or less	Speed Limit over 35 mph	Stationary Run- up
Motor vehicle carrier in interstate commerce of GVWR 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

7.29.08 Permit for Variance.

A. Application; issuance.

1. The Mayor or appointed designee shall have the authority to issue a permit, upon 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 a manner that would comply with this 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 or appointed designee 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 "special event" shall be completed and submitted for approval by Mayor or the appointed designee.

- B. Denial: An applicant who is denied a variance by the Mayor or appointed designee may appeal to the Greenland City Council by filing written notice of appeal within the city clerk within 10 days from date of the denial. The notice of appeal shall specifically state the reasons by the applicant considers the mayor's or appointed designee's decisions to be in error.

7.29.09 Order in Lieu of Notice of Violation.

- A. In lieu of issuing a notice of violation, the mayor, or the appointed designee who shall be responsible for enforcement of any provision of this section, may issue an order requirement abatement of any source of sound alleged to be in violation of this section within a reasonable time period. An abatement order shall not be issued when the Mayor or appointed designee has reason to believe that there will not be compliance with said order.
- B. A violation of any provision of this section shall be cause for a notice of violation to be issued by the mayor or the appointed designee.
- C. Repeated violations are grounds for termination or revocation of a business license.

7.29.10 Fine.

- A. Any person violating any of the provisions of this Section shall be guilty of a misdemeanor, and shall, upon conviction, be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for each offense, or double that sum for



each repetition of such violation. If the violation is, in its nature, continuous in respect to time, the penalty for allowing the continuation thereof shall not exceed \$250.00 for each day that the same is unlawfully continued.

- B. Any person or entity violating the provisions of this Section for which the State investigates any holder of an Alcoholic Beverage Control permit, such person or entity shall be subject to all penalties or fines issued by the State in addition to the fines established herein by the City.