TITLE 7

PUBLIC PEACE, SAFETY AND MORALS

Chapters:

7.04 Curfew
7.12 Weapons
7.16 Fireworks
7.20 Claims against City
7.24 Posting of Ordinances
7.28 Yard Sales
7.32 Open Alcoholic Containers
7.36 Sexually Oriented Businesses
7.40 False Alarms
7.44 Noise

CHAPTER 7.04

CURFEW

Sections;

7.04.01 Definitions
7.04.02 Offenses
7.04.03 Exceptions
7.04.04 Enforcement
7.08.05 Penalties

7.04.01 Definitions The following definitions shall apply in regard to this ordinance:

City City means the incorporated area of the city of Centerton, Arkansas.

Emergency An unforeseen combination of circumstances or the resulting state that calls for immediate action. The terms includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

Establishment Any privately owned place of business operated for profit to which the public is invited, including but not limited to, any place of amusement or entertainment.

Guardian 1. A person who, under court order, is the guardian of the person of a minor; 2 a public or private agency with whom a minor has been placed by a court.

Minor Any person under eighteen (18) years of age.

Operator Any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

Parent 1. Any person who is a natural parent, adoptive parent, foster parent or stepparent of another person; 2. any person who is at least eighteen (18) years of age and authorized by a parent or guardian to have the care and custody of the minor.

Public place Any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

Remain 1. To linger or stay; 2. fail to leave premises when requested to do so by a law enforcement person or the owner, operator, or other person in control of the premises.

Serious bodily injury Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ. (Ord. No. 96-4, Sec. 1.)

7.04.02 Offenses

A. It shall be unlawful for any minor to be in any establishment or public place between the hours of 11:00 p.m. and 5:00 a.m., Sunday through Thursday, and between midnight and 5:00 a.m. on Friday and Saturday.

B. It shall be unlawful for any parent or guardian of a minor to knowingly permit, or by insufficient control allow, the minor to remain in any establishment or public place during the hours of 11:00 p.m. and 5:00 a.m., Sunday through Thursday, and between midnight and 5:00 a.m. on Friday and Saturday.

C. It shall be unlawful for the owner, operator or any employee of an establishment to knowingly allow a minor to remain on the premises of the establishment during the hours of 11:00 p.m. and 5:00 a.m., Sunday through Thursday, and between midnight and 5:00 a.m. on Friday and Saturday. (Ord. No. 96-4, Sec. 2.)

7.04.03 Exceptions

A. Accompanied by a parent, guardian or other person responsible for having legal custody of such minor.

B. Such minor's gainful employment makes it necessary for such minor to be in an establishment or public place after the specified hours.

C. Involved in an emergency.

D. On an errand at the direction of the minor's parent or guardian, without any detour or stop.

E. In a motor vehicle involved in interstate travel.

F. On the sidewalk abutting the minor's residence or abutting the residence of a neighbor, if the neighbor did not complain to the Police Department about the minor's presence.

G. Attending an official school, religious or other recreation activity supervised by adults and sponsored by the county, a city or civic organization or other similar entity that takes responsibility for the minor; or going to or returning home from, without detour or stop, any such activity.

H. Exercising first amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right to assembly.

I. Married or had been married or had disabilities or minority removed according to Arkansas law.

It is a defense to prosecution that the owner, operator or employee of an establishment promptly notified the appropriate law enforcement agency, that a minor was present on the premises of the establishment during curfew hours and refused to leave. (Ord. No. 96-4, Sec. 3.)

7.04.04 Enforcement Before taking any enforcement action under this section, law enforcement officers shall ask the apparent offender's age and reason for being in the establishment or public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred, and that based on any response and other circumstances, no defense is present. (Ord. No. 96-4, Sec. 4.)

7.04.05 Penalties

A. Any minor who shall be found to violate this ordinance shall be subject to the penalties now provided by law for delinquent juveniles.

B. Any adult who is found to have violated this ordinance shall be subject to a fine not to exceed Five Hundred Dollars ($500.00) and/or sentences to not more ten (10) days in the county jail.

C. The court may substitute community service for any period of incarceration or portion of a fine. (Ord. No. 96-4, Sec. 5.)

CHAPTER 7.12

WEAPONS

Sections:

7.12.01 Concealed weapon
7.12.02 Discharging firearms
7.12.03 Throwing objects
7.12.04 Discharging air guns

7.12.01 Concealed weapon Repealed December 14, 2021, Ord 2021-77

7.12.02 Discharging firearms If any person shall be found guilty of discharging firearms of any kind within the city, unless in self-defense or in the execution of legal process, he shall be deemed guilty of a misdemeanor. This section shall not apply to any area within the city that has been established as an agricultural zoning district. (Ord. No. 2002-4, Sec. 1.)

STATE LAW REFERENCE – Discharging firearm as disturbance of the peace. A.C.A. 5-5-101.

7.12.03 Throwing objects Any person found throwing stones, sticks or missiles of any kind whatever at or upon any public or private building or at any person in the street, alley, place or unenclosed or enclosed ground within the city shall be deemed guilty of a misdemeanor.

7.12.04 Discharging air guns No person shall use or discharge any type of a pellet, "B-B," air rifle or pistol, or any other such weapon which is gas, air or spring operated within this city.

CHAPTER 7.16

FIREWORKS

Sections:

7.16.01 Definitions
7.16.02 Unlawful acts
7.16.03 Penalties
7.16.04 Exceptions
7.16.05 Permits
7.16.06 Times of Permissible Sales
7.16.07 License Required

7.16.08 Suspension of permits and exception periods upon the imposition of a Benton County Burn Ban Order
7.16.09 Conflicts

7.16.01 Definitions The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Fireworks Commercial fireworks and pyrotechnics which include, but are not limited to the following: Roman candles, sky rockets, helicopter-type rockets, cylindrical fountains, cone

fountain, wheels, illuminating torches and colored fire in any form other than those used for safety or distress signals, mines and shells, firecrackers and salutes, and novelties which consist of two or more devices listed herein, and any additional firework defined as a Class C firework, pursuant to ACA 20-22-708, as amended.

Organized public display Organized display of fireworks for and in the public, conducted in accordance with the rules and regulations promulgated by the Director of the Arkansas State Police.

Applicant Person or entity making application for a permit to supervise and conduct an organized public display as defined above, and in satisfaction of the requirements, rules and regulations promulgated by the Director of the Arkansas State Police and A.C.A. 20-22-701, et seq. (Ord. No. 2001-7, Sec. 1.)

7.16.02 Unlawful acts It shall be unlawful to use, shoot or otherwise discharge fireworks within the corporate limits of Centerton, Arkansas, except as sanctioned by permit or as set out in the specific exceptions listed herein. (Ord. No. 2001-7, Sec. 2.)

7.16.03 Penalties Any person or persons violating any of the provisions or sections of this ordinance shall, upon conviction, be deemed guilty of a misdemeanor and fined in any sum not less than Twenty-Five Dollars ($25.00), nor more than One Hundred Dollars ($100.00) per offense. Each occasion of use or discharge shall be considered a separate offense. (Ord. No. 2001-7, Sec. 3.)

7.16.04 Exceptions It shall be lawful to use, shoot or otherwise discharge fireworks within the corporate limits of Centerton, Arkansas, during the following period each year.

A. Between the hours of 8:00 a.m. and 11:00 p.m., July 2 – July 5.
B. Between the hours of 8:00 a.m. and midnight, December 31.
C. Between the hours of 12:01 a.m. and 12:30 a.m., January 1.
D. In the event that a burn ban prohibits the use of fireworks on any of the above dates then fireworks shall be allowed to be fired on Labor Day and the Sunday preceding Labor Day between the hours of 10:00 a.m. until 10:00 p.m.
E. In the event of 2 or more rain events in the evening during this period of July 2nd

thru 5th, fireworks shall be permitted the following Friday and Saturday from 8:00 a.m. to 11:00 p.m.
(Ord. No. 2025-38, Sec. 1.)

7.16.05 Permits A special permit may be obtained for the use of fireworks for organized public displays at other hours than those prescribed and for those situations absolutely prohibited under 7.16.02, which permit shall be a special permit for specific special occasions and for specific limited times only. Permits required by this section shall be granted and issued by the Fire Chief, and shall contain the signature and approval of the Chief of Police of the city of Centerton as required by A.C.A. 20-22-702(b)(3), upon written application submitted by the applicant, stating the proposed site, duration and details of the proposed display, including, but not limited to, the types and amounts of fireworks to be used, and signed by the applicant. Failure to comply with any condition of a temporary specific permit issued pursuant to this section shall constitute a violation of this ordinance, and shall result in the penalties as set forth in 7.16.03. No permit shall be issued for periods during which a burn ban order has been imposed by Benton County. (Ord. No. 2001-7, Sec. 5.)

7.16.06 Times of Permissible Sales Permissible items of fireworks may be sold at retail to residents and non-residents within the city corporate limits from June 20 thru July 10 and from December 10 through January 5 of each year.

7.16.07 License Required To engage in the sale of fireworks to the public, in open or closed sales, applicant shall obtain a license from the Arkansas State Police and a Use Permit from the city. The Use Permit shall be obtained from the city Planning Department prior to the start of any sale of pyrotechnic devices with the city corporate limits.

7.16.08 Suspension of permits and exception periods upon the imposition of a Benton County Burn Ban Order All permits as described and set forth in Section 5, and all exception periods as described and set forth in Section 4, shall be immediately suspended upon the imposition of a Burn Ban Order by Benton County. The use, shooting or otherwise discharging of fireworks within the corporate limits of the city of Centerton, Arkansas, during a Benton County Burn Ban Order shall constitute an unlawful act as prohibited by Section 2 of this ordinance. (Ord. No. 2016-15, Sec. 6.)

7.16.09 Conflicts Nothing in this ordinance shall be construed as conflicting with the rules and regulations promulgated by the Director of the Arkansas State Police of A.C.A. 20-22-701, et seq. (Ord. No. 2001-7, Sec. 7.)

CHAPTER 7.20

CLAIMS AGAINST CITY

Sections:

7.20.01 Liability insurance

7.20.02 Settlement of claims

7.20.01 Liability insurance The city shall carry liability insurance on all its motor vehicles in the minimum amounts prescribed in the Motor Vehicle Safety Responsibility Act. (Ark. Stats. 75-1402, et seq.)

7.20.02 Settlement of claims All persons having claims against the city may file them with the City Recorder. The Recorder shall present them to the Council. The Council may grant a hearing for the claimant and authorize a settlement.

STATE LAW REFERENCE – Ark. Stat. 12-2902.

CHAPTER 7.24

POSTING OF ORDINANCES

Sections:

7.24.01 Public places
7.24.02 Posting is notification

7.24.01 Public places

The following places, which are hereby found to be five (5) of the most public places in the city of Centerton, are hereby designated for posting of notice of adoption of ordinances of the city:

United States Post Office
Collier Drugs
First National Bank, Centerton Branch
Centerton City Hall
Starbucks

7.24.02 Posting is notification

Notice of the adoption of ordinances of the city of Centerton, Arkansas shall be effected by posting of ordinances at the location set forth in 7.24.01.
(Ord.2026-18 Sec.7.24.1)

CHAPTER 7.28

YARD SALES

Sections:

7.28.01 Definition
7.28.02 Time and frequency limitations
7.28.03 Signs
7.28.04 Fine

7.28.01 Definition Residential sale shall mean any sale which is commonly known as a garage, porch, room, yard, backyard, patio, rummage, or any other type of general sale conducted from or on any premises located in a residential zoning district. (Ord. 2011-14, Sec. 1)

7.28.02 Time and Frequency Limitations Residential sales shall be conducted for not more than three (3) consecutive days. Each location is limited to four (4) residential sales in one calendar year. There shall be at least a thirty (30) day time period between each residential sale conducted from the same location. (Ord. 2011-14 Sec. 2)

7.28.03 Signs Signs for residential sales shall be posted not more than three (3) days prior to said sale and all signs shall be removed within twenty-four (24) hours after the residential sale has ended. Each sign posted shall contain the address at which the sale is to be held and the days on which the sale will be conducted. (Ord. 2011-14 Sec. 3)

7.28.04 Fine Any person, firm, or corporation violating any provision of this chapter shall, upon conviction, be deemed guilty of a misdemeanor and fined in a sum not less than Thirty-Five Dollars ($35.00) or more than One Hundred Fifty Dollars ($150.00), and each day that such violation continues shall be a separate punishable offense. (Ord. 2011-14 Sec. 4)

CHAPTER 7.32

OPEN ALCOHOLIC CONTAINERS

Sections:

7.32.01 Definitions
7.32.02 Unlawful
7.32.03 Fine

7.32.01 Definitions The following definitions shall apply in regard to this ordinance:

Beer Any fermented liquor made from malt or any substitute therefore and having an alcoholic content not in excess of five percent (5%) by weight.

Intoxicating liquor Any ardent, malt fermented liquor or distilled spirits with an alcoholic content in excess of five percent (5%) by weight.

Wine Any fermented juice of grapes or other fruit, including berries, and having any alcoholic content.

Public place Any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, shops and eating establishments. (Ord. No. 96-5, Sec. 1.)

7.32.02 Unlawful It shall be unlawful for any person to have in his possession or control any open container or bottle containing any beer, light wine, or intoxicating liquor within or upon any public place within the city of Centerton. (Ord. No. 96-5, Sec. 2.)

7.32.03 Fine Any person who shall be found to violate this ordinance shall be guilty of a misdemeanor and shall be subject to a fine of not less than Fifty Dollars ($50.00) and not more than Five Hundred Dollars ($500.00). (Ord. No. 96-5, Sec. 3.)

CHAPTER 7.36

SEXUALLY ORIENTED BUSINESS

Sections:

7.36.01 Purpose and intent
7.36.02 Definitions
7.36.03 Classification
7.36.04 Conditional use permit required
7.36.05 Non-conforming sexually oriented business
7.36.06 Enforcement

7.36.01 Purpose and intent It is the purpose of this section to regulate sexually oriented businesses to promote the health, safety and general welfare of the citizens of the city of Centerton, and to establish reasonable and uniform regulation to prevent the concentration of sexually oriented businesses within the city. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials.

Similarly, it is not the intent nor effect of this section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market, unless otherwise restricted by law. (Ord. No. 2005-76, Sec. 1.)

7.36.02 Definitions

Adult Arcade - any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled image-producing devices are maintained to show images to five or fewer viewers at one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

Adult bookstore or Adult Video Store - a commercial establishment which as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

A. Books magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproduction, slides or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas," or,

B. Instruments, devices or paraphernalia, which are designed for, use in connection with" specified sexual activities."

Adult Cabaret - a nightclub, bar, restaurant or similar commercial establishment which regularly features:

A. Persons who appear in a state of nudity; or

B. Live performances which are characterized by the exposing of "specified anatomical areas" or by "specified sexual activities," or

C. Films, motion pictures, videocassettes, slides or other photographic reproductions, which are characterized by the depiction of "specified sexual activities" or "specified anatomical areas."

Adult Motion Picture Theater - a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized or distinguished by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

Adult Theaters - a theater, concert hall, auditorium or similar commercial establishment, which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified anatomical areas" or "specified sexual activities."

Nudity or State of Nudity -

A. The appearance of the bare human buttocks, anus, male genitals, female genitals or female breast.

B. A state of dress that fails to opaquely cover a human buttocks, anus, male genitals, female genitals or areola of the female breast.

Person - an individual, proprietorship, partnership, corporation, association or other legal entity.

Semi-nude - a state of dress in which clothing covers no more than the genitals, pubic region and or the female breast, as well as portion of the body covered by supporting straps or devices.

Sexually Oriented Business - an adult arcade, adult bookstore or adult video store, adult cabaret, adult motion picture theater or adult theater whose inventory, merchandise or performances are characterized by a preponderance of "specified sexual activities" or "specified anatomical areas."

Specified Sexual Activities -

A. Human genitals in a state of sexual stimulation or arousal;

B. Act of human masturbation, sexual intercourse or sodomy;

C. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

Specified Anatomical Areas -

A. Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the areola; and

B. Human male genitals in a discernible turgid state even if completely and opaquely covered.

Residential District - any land within the city limits of Centerton zoned as R-1, R-2 or R-3, or other residential zoning or single family or multiple family residential use, as defined by the ordinance.

Conditional Use - a use which may be conditionally permitted in a zone where it is specifically listed, subject to the provisions of the Centerton Municipal Code. (Ord. No. 2005-76, Sec. 2.)

7.36.03 Classification Sexually oriented businesses are classified as follows:

A. Adult Arcade;
B. Adult Bookstores or Adult Video Stores;
C. Adult Cabarets;

D. Adult Motion Picture Theaters;
E. Adult Theaters
(Ord. No. 2005-76, Sec. 3.)

7.36.04 Conditional use permit All sexually oriented businesses shall be considered a conditional use pursuant to the Centerton Municipal Code, and all sexually oriented businesses shall secure a conditional use permit from the Centerton Planning Commission in accordance with the rules and regulations of said code prior to opening a business or being issued an occupation license. A sexually oriented business shall only be allowed in C-2 zoning, however, the owner or operator of such business may apply to the Planning Commission for the rezoning of any land owned by the owner or operator or leased by the owner or operator for the purpose of operating a sexually oriented business, and with the approval of the Planning commission have such land rezoned C-2 if the land and location complies with the other provisions of this

ordinance and the Planning Commission decides that C-2 is the highest and best use of the land. A conditional use permit will still be required after the property is rezoned and such conditional permit may be issued by the Planning Commission only if all other conditions of this ordinance are met by the proposed location. (Ord. No. 2005-76, Sec. 4.)

7.36.05 Non-conforming sexually oriented

A. A person commits an offense if that person operates or causes to be operated a sexually oriented business within 500 feet of:

   1. A church.

   2. A public or private elementary, secondary or post-secondary school, or day-care center or other child care facility.

   3. A neighborhood park or city park.

B. A person commits an offense if that person causes or permits the operation, establishment or maintenance of a sexually oriented business within 500 feet of a boundary of a residential zone (R-1, R-2, R-3 or any other residential classification) or any single family or multiple family residential use.

C. For the purposes of this subsection, measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church or private or public elementary or secondary school or day care center, or to the nearest boundary of an affected public park, residential district or residential lot.
(Ord. No. 2005-76, Sec. 5.)

7.36.06 Enforcement

A. Any sexually oriented business lawfully operating on September 13, 2005, that is in violation of any section of this ordinance shall be deemed a non-conforming use. The non-conforming use shall be permitted to continue for a period not to exceed three (3) years unless sooner terminated for any reason or discontinued for a period of ninety (90) days or more. However, those sexually oriented businesses obligated by a written lease executed prior to the passage of this ordinance, that exceeds three (3) years from the effective date of this ordinance, or whose activity involves the investment of money in leasehold or improvements such that a longer period is necessary to prevent undue financial hardship, are eligible for review by the Planning Commission for a reasonable extension.

B. A sexually oriented business lawfully operating as a conforming use is not rendered a non-conforming use by the subsequent location of a park, church, public or private elementary school or secondary school or day care center, residential lot or residential district within 500 feet of the sexually oriented business. This provision applies only to an ongoing sexually oriented business, not to a sexually oriented. (Ord. No. 2005-76, Sec. 6.)

CHAPTER 7.40

FALSE ALARMS

Sections:

7.40.01 Definitions
7.40.02 Offenses
7.40.03 Exceptions
7.40.04 Enforcement
7.40.05 Penalties

7.40.01 Definitions For the purpose of this section, the following words and phrases shall have the meanings ascribed to them in this section:

ALARM SYSTEM shall mean any mechanism, equipment or device designed to detect the unlawful entry or attempted unlawful entry into any premises, to detect a robbery in progress, or to detect a fire in the City, the report of which is then transmitted to or through or is in any manner connected with a communications system which is designed to operate automatically or ultimately through the use of public telephone facilities to transmit a signal, message or warning to the alarm company, police department or fire department.

FALSE ALARM shall mean alarms attributable to faulty equipment, or negligence on the part of the manufacturer, installer, or user of said equipment. False alarms do not include those alarms caused by Acts of God.

POLICE DEPARTMENT shall mean the Centerton Police Department or a law enforcement officer working as part of the Department.

SUBSCRIBER shall mean any person utilizing an alarm system in the City. (Ord. No. 10-03, Sec. 1.)

7.40.02 Offenses It shall be the responsibility of the subscriber to provide, or cause to be provided, accurate and detailed directions for responding to alarms to the person(s) or entity responsible for monitoring the alarm, so that said directions can be relayed to police or fire dispatchers in the event of an actual alarm. It shall be unlawful for a subscriber to permit more than two (2) false alarms within three (3) months of the date of the first false alarm. (Ord. No. 10-03, Sec. 2.)

7.40.03 Exceptions The provisions of this ordinance do not apply to any and all hospitals, schools, nursing homes or government agencies. (Ord. No. 10-03, Sec. 3.)

7.40.04 Enforcement This Ordinance shall be enforced by the Police Department (Ord. No. 10-03, Sec. 4.)

7.40.05 Penalties The subscriber shall be subject to a fine of up to One Hundred Dollars ($100.00) per violation of this Ordinance." (Ord. No. 10-03, Sec. 5)

CHAPTER 7.44

Noise

Sections:

7.44.01 General
7.44.02 Prohibited acts
7.44.03 Responsible person
7.44.04 Exceptions
7.44.05 Penalties
7.44.06 Other remedies

7.44.01 General

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 as defined below.

7.44.02 Prohibited acts

The following acts, and the causing thereof, are declared to be in violation of this ordinance:

A. **Engine exhaust**

The discharge into the open air or the exhaust of any steam engine or stationary internal combustion engine except through a muffler or other device which will effectively prevent loud and disturbing noises therefrom.

Noise and smoke producing devices shall be prohibited (AC.A. 27-37-601)

1. Every motor vehicle shall at all times be equipped with a factory-installed muffler or one duplicating factory specifications in good working order and in constant operation to prevent excessive or unusual noise and/or annoying smoke.

2. No person shall use on a motor vehicle upon the public roads, highway, streets, or alley of this city, nor shall any person sell for use on a motor vehicle upon the public roads, highways, street, or alleys of this city, a muffler, other than as defined in subsection (A) of this section, using a cutout, bypass, or similar device, or any type of device which produces excessive unusual noise or smoke.

B. **"Engine Brakes"**

The creation or emission of engine of exhaust noise through the use of "Engine brake" or other similar engine compression retarding device so as to create a loud or disturbing noise, except when such devices are used as a safety device.(Ord 2018-12)

C. **Radios, televisions, boom boxes, phonographs, stereos, musical instruments and similar devices**

The use or operation of a radio, television, boombox, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and which unreasonably disturbs the peace, quiet, and comfort of neighbors and passer-by, or is plainly audible at a distance of 50 feet from any person in a commercial, industrial are, or public space. The use or operation of a radio, television, boombox, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and unreasonably disturbs the peace, quiet and comfort of neighbors in residential or noise sensitive area, including multi-family or single-family dwellings.

D. Motor vehicle radios, vehicle horns, signaling devices, and similar 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 manner as to cause a loud and disturbing noise which is plainly audible to persons other than the occupants of said vehicle. Phrases need not be discernible and bass reverberations are included. Plainly audible means any sound produced by a sound amplification system from within the vehicle.

The sounding of any horn, signaling device, or other similar device, on any automobile, motorcycle, or other vehicle on any right-of-way or in any public space of the city of Centerton, for more than ten (10) consecutive seconds. The sounding of any horn, signaling device, or other similar device, as a danger warning is exempt from this prohibition.

Sounding or permitting sounding of any amplified signal from any bell, chime, siren, whistle or similar device, intended primarily for non-emergency purposes, from any place for more than ten (10) consecutive seconds in any hourly period. The reasonable sounding of such devices by houses of religious worship, ice cream trucks, seasonal contribution solicitors or by the city of Centerton, for traffic control purposes are exempt from the operation of this provision.

The intentional sounding or permitting the sounding outdoors of any emergency signaling device including fire, burglar, civil defense alarm, siren, whistle, or similar emergency signaling device, except in an emergency or except as provided in subsections below.

1. Testing of an emergency signaling device shall occur between 7:00 a.m. and 7:00 p.m. Any testing shall use only the minimum cycle test time. In no case shall such test time exceed five (5) minutes. Testing of the emergency signaling system shall not occur more than once in each calendar month.

2. Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm.

E. **Building construction or repair**

The erection including excavating, demolition, alteration or repair of any building so as not to create a loud and disturbing noise between the hours of 10:00 p.m. until dawn every day of the week, except in case of urgent necessity in the interest of public health and safety and then only with a permit from the City Inspector/Code Enforcement, which permit may be granted only while the emergency exists. If the City Inspector/Code Enforcement 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 within the hours of 10:00 p.m. and dawn every day of the week, he may grant permission for such work to be done within such hours or within 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.

F. **Animals and birds**
Unreasonably loud and raucous noise emitted by an animal or bird for which a person is responsible. A person is responsible for an animal if the person owns, controls or otherwise cares for the animal or bird. Sounds made by animals or birds in animal shelters, kennels, veterinary hospitals, pet shops or pet kennels, licensed under and in compliance with licensing and permitting provisions set forth by the City of Centerton are exempt from this subsection.

G. **Loading and unloading**
Loading, unloading, opening, closing, or other handling of boxes, crates, containers, building materials, garbage cans, or similar objects between the hours of 10:00 p.m. and dawn the following day in such a manner as to cause a noise disturbance across a residential real property boundary.

H. **Domestic power tools**
Operating or permitting the operation of any mechanically powered saw, sander, drill, grinder, lawn or garden tool, snow blower, or similar device used outdoors in residential areas between the hours of 10:00 p.m. and dawn the following day so as to cause a noise disturbance across a residential real property boundary.

I. **Loudspeakers, amplifiers, public address systems, and similar devices**
The unreasonable loud and raucous use or operation of a loudspeaker, amplifier, public address system, or other device for producing or reproducing sound between the hours of 10:00 p.m. and 7:00 a.m. on weekdays, and 10:00 p.m. and 10:00 a.m. on weekends and holidays in the following areas:

1. Within or adjacent to residential or noise-sensitive areas;

2. Within public space if the sound is plainly audible across the real property line of the public space from which the sound emanates, and is unreasonably loud and raucous.

This shall not apply to any public performance, gathering, or parade for which a permit has been obtained from the city of Centerton.

7.44.03 Responsible person

Any person, owner, agent or supervisor in charge of operating, ordering, directing or allowing the operation or activity creating noise shall be guilty of a violation of this article and subject to the penalties.

7.44.04 Exceptions

A. The provisions of this ordinance shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency, or the emission of sound in the performance of emergency work.

B. The term "loud and disturbing noise" does not include noise or sound generated by the following:

1. Radios, sirens, horns, and bells on police, fire, and other emergency response vehicles.

2. The testing of emergency tornado warning systems (sirens, horns, and bells).

3. Public activities on or in municipal parks (July 4th activities, Old Fashioned Day, etc.); school athletic facilities; sporting event(s); musical productions; parades or other activities with the approval of the Mayor or the Centerton City Council.

4. Excavation or emergency work repairs of utilities, bridges, streets, or highways by or on behalf of the city of Centerton, Benton County, or the state of Arkansas, during the nighttime when the public welfare and convenience renders it impossible to perform such work during the day.

5. This provision shall not apply to sound trucks duly licensed under the provision of any revenue ordinance, or ordinance of the city in connection with political rallies.

6. 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.

7. Religious worship activities conducted in a permanent structure, including but not limited to bells, chimes, and/or organs. This includes regularly scheduled church bells, chimes or music.

8. The movement of aircraft which is in all respects conducted in accordance with, or pursuant to, applicable federal laws or regulations.

9. Locomotives and other railroad equipment.

10. 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.

7.44.05 Penalties

Any person violating any provision of this ordinance shall be deemed guilty of a misdemeanor upon conviction by the District Court of Centerton, Arkansas, and shall be subjected to a penalty of not less than One Hundred Dollars ($100.00) plus court costs and not more than Five Hundred Dollars ($500.00)

plus court costs.

7.44.06 Other remedies

No provision of this ordinance shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this ordinance or from other law.