



COPY

**ORDER**

OF THE POLK COUNTY COMMISSIONERS COURT ADOPTING

**REGULATIONS APPLICABLE TO COUNTY-OWNED PARKS AND STRUCTURES****ARTICLE I. NOISE****Section A. Definitions.**

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

- (1) *Commercial property* means real property which does not fall within the definition of residential property, as that term is defined by this section.
- (2) *dB(A)* means the intensity of a sound expressed in decibels read from a calibrated sound level meter utilizing the A-level weighting scale and the slow meter response, as specified by the American National Standards Institute.
- (3) *Emergency ground vehicle* means a police car, ambulance, fire truck, first responder vehicle or other similar equipment intended for operation by authorized emergency personnel.
- (4) *Large event venue* means any large-scale park, complex, arena, amphitheatre and such other, specific county facilities as may be designated as "large event venues" by the commissioner's court.
- (5) *Obscenity* means any material that lacks serious scientific, literary, artistic, or political value; material that is patently offensive; and material that, given the contemporary morals of the community, appeals to a prurient interest in sex.
- (6) *Person* means any individual, association, partnership, corporation, or any other commercial or charitable entity organized under the laws of the State of Texas, whether operated for profit or not.
- (7) *Property line* means the line along the ground surface, and its vertical extension, which separates the real property owned, leased or occupied by one person from that owned, occupied or leased by another person and the imaginary line which represents the legal limits of property of any person who owns, leases or otherwise occupies adjacent property.
- (8) *Residential property* means real property which is used for single-family or multi-family residential purposes and which is not actually used for another purpose, or real property upon which there exists a single-family residence or multi-family residence which is not actually used for another purpose, or real property upon which there exists a single-family or multi-family residence. In the case of an apartment building or other multi-family residential structure, each unit of occupancy may be considered a separate residential property. The term residential property does not include a hotel, motel or other similar accommodations not intended or generally utilized for long-term occupancy.
- (9) *Sound amplification device* means a speaker, amplifier or other mechanism from which amplified sound emanates.

- (10) *Sound nuisance* means any sound which unreasonably annoys, disturbs, injures or endangers the peace, comfort, repose, health or safety of a reasonable person of ordinary tastes and sensitivities, regardless of whether or not such a reasonable person's peace, comfort, health, repose or safety is actually annoyed, disturbed, injured or endangered.

**Section B. General Prohibition.**

- (1) It shall be unlawful for any person to make, cause, allow or permit a sound nuisance in any county owned park or structure.
- (2) The acts enumerated in this article, among others, are declared to be per se sound nuisances in violation of this article, but such enumerations are illustrative only, and are in no way intended to be the exclusive ways by which this article may be violated.
- (3) An offense under this section is a class "C" misdemeanor, punishable by a fine not to exceed \$500 per violation.

**Section C. Prima Facie Evidence of a Sound Nuisance.**

- (1) Nothing in this article shall be deemed to require the use of noise decibel (dB(A)) evidence in any prosecution instituted under this article; provided, however, that an activity or sound source which produces a sound that exceeds the following dB(A) levels when measured upon a receiving property shall be prima facie evidence of a sound nuisance:
  - (a) Sixty-five dB(A) between the hours of 7:00 a.m. and 10:00 p.m.; and
  - (b) Fifty-eight dB(A) between the hours of 10:00 p.m. and 7:00 a.m.
- (2) Unless a differing point of reception is specified, all measurements shall be taken at or near the nearest property line of the property where the sound is being received.

**Section D. Noisy vehicles; noises from motor vehicle radios, portable stereos or other devices; obscenity.**

- (1) The use of any automobile, motorcycle, or other vehicle so out of repair, loaded or modified in such a manner so as to create a loud and unreasonable grating, grinding, rattling noise, or any other loud and unreasonable sound on or around a county owned park or structure is hereby prohibited and declared to be unlawful. The operation by drivers of diesel powered trucks and equipment of any compression-braking device, including, but not limited to, those devices commonly known as "Jake Brakes" shall be deemed a violation of this section.
- (2) It shall be unlawful for any person to play, use or operate, or permit to be played, used or operated, any radio, television set, musical instrument, bullhorn, phonograph, tape player or other machine or device for the producing or reproducing of sound on or around a county owned park, building or structure in such a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing of persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure, vehicle, or source from which is being operated shall be prima facie evidence of a sound nuisance.

- (3) Although not required to be proved in a prosecution under this article, evidence that a motor vehicle sound source produces a sound that exceeds the dB(A) levels established by section C when measured a or near fifteen (15) feet from the nearest external point on a vehicle shall be prima facie evidence of a sound nuisance.
- (4) The county having a strong interest in the moral fortitude of its citizenry, it shall be unlawful for any person to use, play, say, or permit to be used or played or said, whether spoken live or recorded, any material that is obscene.
- (5) An offense under this section is a class "C" misdemeanor, punishable by a fine not to exceed \$500 per violation.

#### **Section E. Defenses.**

The following defenses shall apply to any offense established under this article:

- (1) The emission of any sound was for the purpose of alerting persons to the existence of an emergency, danger or attempted crime.
- (2) The sound was produced by an authorized emergency ground vehicle.
- (3) The sound was produced by emergency work necessary to restore public utilities or to restore property to a safe condition, or to protect persons or property from imminent danger arising out of fire, accident, natural disaster, or the like.
- (4) The sound was produced by a street sweeper or other equipment used for public street maintenance.
- (5) The sound was generated:
  - (a) At a lawfully scheduled, county-sanctioned and permitted event;
  - (b) By the spectators and participants along a pre-determined route during a permitted parade;
  - (c) By the spectators and participants of any county-sanctioned and permitted outdoor event, fun run, race, festival, fiesta or concert; or
  - (d) By a governmental entity.
- (6) The sound was produced between 7:00 a.m. and 9:00 p.m. by the erection, excavation, construction, demolition, alteration or repair of a building or other structure, or the operation of tools and/or equipment used in any such activity.
- (7) The sound was produced between 7:00 a.m. and 9:00 p.m. by the operation of any mechanically powered saw, drill, sander, router, grinder, lawn or garden tool, lawnmower, or any similar device used for the maintenance or upkeep of the property on which it was used.
- (8) The sound was produced by railroad equipment in operation on railroad rights-of-way.
- (9) The sound was produced by church bells or church chimes when used a part of a religious observance or service.

#### **Section F. Separate Offenses; No Culpable Mental State Required.**

- (1) Each and every violation of a section or subsection under this article shall be treated as a separate and distinct offense.
- (2) Any violation under this article for which a penalty is not prescribed shall be a class "C" misdemeanor, punishable by a fine not to exceed \$500.
- (3) In the prosecution of any offense under this article, it shall not be necessary to prove a culpable mental state, unless a specific culpable mental state is prescribed by the section or subsection defining the offense to be proved. Therefore, every offense under this article shall be a "strict liability offense" unless specifically made otherwise by the applicable section or subsection.

**ARTICLE II. ALCOHOLIC BEVERAGES; GLASS CONTAINERS.****Section A. Possession and Consumption; Areas Where Prohibited.**

- (1) Except as may be otherwise provided under this article, no person shall possess or consume any alcoholic beverage, including, but not limited to, beer, wine, liquor, wine cooler, daiquiri or any other substance known as an alcoholic beverage, regardless of the alcohol content of said beverage, at or on any county-owned property, including a county-owned park or structure, whether or not there are signs posted which prohibit said possession or consumption.
- (2) Any person who violated this section shall be guilty of a class "C" misdemeanor.

**Section B. Glass Containers Prohibited.**

- (1) No person shall possess any beverage, alcoholic or otherwise, in a glass bottle, jar or other glass container, while on or in a county-owned park or structure.
- (2) Any person who violates this section shall be subject to a fine not to exceed \$200 per violation.

**ARTICLE III. HOURS OF OPERATION.****Section A. Commissioner's Court May Regulate.**

- (1) The commissioner's court hereby regulates the hours of operation and the hours any county-owned park or structure is open to the members of the public.
- (2) The hours of operation listed under this article are applicable to county-owned parks, buildings or structures for which the commissioner's court has not specifically set different hours of operation.
- (3) The commissioner's court may, from time to time, by resolution or other joint action of the court as may be deemed necessary, change or modify the hours generally applicable to county-owned parks or structures, or change or modify the specific hours applicable to individual county-owned properties.

**Section B. Hours.**

- (1) The general hours of operation for county parks and structures shall be from 7:00 a.m. to 9:00 p.m. each day of the week.
- (2) The commissioner's court is hereby authorized to place gates or other obstacles at each entrance to specific county-owned parks or structures, together with a sign notifying the members of the general public of the hours of operation of the park or structure, and may lock said gates during the hours of closure.

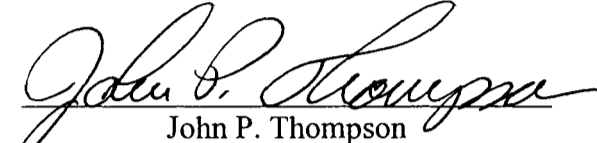
**Section C. Trespassing, Prosecution and Penalty.**

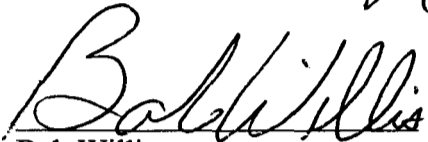
- (1) It shall be considered a criminal trespass for any member of the general public to enter such county-owned park or structure at any hours that the same is closed under this article, or otherwise marked upon the entrance to said park or structure as being closed, or if the gates to said park or structure are closed and locked.
- (2) In a prosecution for trespassing upon a county-owned park or structure, it shall not be necessary to prove the existence of a sign contemplated by this article, and all members of the public are charged with knowledge of the rules and regulations governing county-owned parks and structures.
- (3) Any person, corporation or association who violates the hours set in section B shall be guilty of a class "C" misdemeanor, and any prosecution for a violation of the hours set in section B shall be separate and apart from any criminal trespass prosecution brought by the State of Texas for a violation of this article.


WHEREAS, the Polk County Commissioners Court met in a regularly called session on October 14th, 2008, 2008, with the following members present to wit; John P. Thompson, County Judge; Bob Willis, Commissioner Precinct 1; Bobby Smith, Commissioner Precinct 2, James J. "Buddy" Purvis, Commissioner Precinct 3; Tommy Overstreet, Commissioner Precinct 4; and

WHEREAS, following the properly posted notice and agenda for said meeting, the Polk County Commissioners Court approved and adopted the above Regulations Applicable to County Owned Parks and Structures.

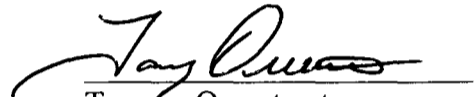
SIGNED AND RESOLVED THIS 14th DAY OF October, 2008.

  
John P. Thompson  
County Judge, Polk County, Texas

  
Bob Willis  
Commissioner, Precinct 1

  
Ronnie Vincent  
Commissioner, Precinct 2

Absent  
James J. "Buddy" Purvis  
Commissioner, Precinct 3

  
Tommy Overstreet  
Commissioner, Precinct 4

Attest,   
Barbara Middleton, County Clerk

**(The following sign shall be posted at any location to which these Regulations apply)**

SITE  
RULES AND REGULATIONS

**BY ORDER OF THE COMMISSIONER'S COURT  
OF POLK COUNTY, TEXAS:**

**THE HOURS OF OPERATION FOR THESE PREMISES  
IS FROM 7:00 A.M. UNTIL 9:00 P.M. EVERY DAY OF  
THE WEEK. ANY PERSON FOUND ON SITE WHILE  
THE PREMISES ARE CLOSED WILL BE ARRESTED  
FOR CRIMINAL TRESPASS UNDER SECTION 30.05 OF  
THE TEXAS PENAL CODE.**

**FURTHER, THE FOLLOWING ACTS ARE  
PROHIBITED WHILE ON THESE PREMISES:**

- 1. POSSESSION OR CONSUMPTION OF ALCOHOL;**
- 2. USE OR POSSESSION OF GLASS BOTTLES, JARS  
OR OTHER SUCH CONTAINERS;**
- 3. MUSIC, LANGUAGE OR NOISE FROM ANY  
SOURCE WHICH IS PLAYED, BROADCAST OR  
SPOKEN AT SUCH A VOLUME AS TO CREATE A  
SOUND NUISANCE; AND**
- 4. OBSCENE LANGUAGE OR MUSIC.**