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CRYSTAL GRADY
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D.C.

EMERGENCY ORDINANCE (3)

No. 2024 - 31

BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF BOONE, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED:

AN EMERGENCY ORDINANCE FOR THE PROTECTION OF THE TRAVELING PUBLIC, CONDITION AND MAINTENANCE OF THE COUNTY MAINTAINED PUBLIC ROADS IN BOONE COUNTY AND WITHIN ITS UNINCORPORATED LIMITS; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

WHEREAS, Boone County, Arkansas, has over 700 miles of county maintained public roads;

WHEREAS, the Quorum Court finds that the public interest is served by protecting the county maintained public roads and ability of the county road crews to be able to maintain the county maintained public roads in the county;

WHEREAS, it is necessary to adopt this Ordinance to assure the county road crews are able to maintain the right-of-way, public road easement, roadway, subgrade, culverts and signage for those county maintained public roads;

WHEREAS, the Quorum Court finds that public safety and public interest is served by protecting the traveling public from the placement, creation or existence of physical and functional encroachments or obstructions to county maintained public roads.

THEREFORE, BE IT ORDAINED BY THE QUORUM COURT OF BOONE COUNTY, STATE OF ARKANSAS:

ARTICLE 1: Purpose and Applicability

The road easements or right of way for county maintained public roads in Boone County, Arkansas, shall be inviolate for county road purposes and free from the existence of functional and physical encroachments or obstructions, except where written permission is granted and issued by the County Judge.

ARTICLE 2: County Maintained Public Roads

For purposes of this ordinance, "county maintained public road" shall mean: any road identified as a county road assigned a county road name and maintained by the county; or any road in which the county has directed construction, material, blading or grading, maintenance, mowing or repairs of the road, roadway, or right of way, road easement or bridges.

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ARTICLE 3: It shall be unlawful and a violation of this ordinance for any person, persons or organization to engage in the following activities on county maintained public road, to:

- (a). Create a physical or functional encroachment within the road easement or right of way for a county maintained public road;
- (b). Throw, dump or place any item or items onto a county maintained public road, including but not limited to, the county roadway or roadbeds, shoulder, ditch, subgrade, right of way, easement, backslope of the ditch, of any county maintained public road in the unincorporated areas of the county;
- (c). Dig, or place or situate any utilities, poles, lines, fences, cables, wires, or any item whatsoever within the easement or right of way of a county maintained public roads without first obtaining the written consent of the County Judge and comply with the utility accommodation permit requirements of the county;
- (d). Any item, items, fences, gates (whether closed, locked or unlocked), obstacles, physical or functional encroachments within the road easement or right of way of a county maintained public road shall be moved by or at the expense of the owner of the property;
- (e). Burn anything within the road easement or right-of-way of a county maintained public road without the permission of the County Judge;
- (f). Create a physical or functional encroachment by the diversion or placement of water onto the roadway, subgrade, right of way or road easement or to create an impairment to public safety of the ability of the county to maintain the subject county road; or
- (g). Park a motor vehicle, trailer, camper, mobile home, equipment, or item within the roadway, road easement or right-of-way of a county maintained public road, except during an emergency due to malfunction, in which case the property shall be immediately removed from the roadway or driving surface to assure the safety of the traveling public. In no event shall the property remain parked on the shoulder of the roadway for over 48 hours.

ARTICLE 4: Penalties and Remedies

- (a). Violation of this ordinance shall result in the fine of \$1,000 for a specified offense or violation, or double that sum for repetition of the offense or violation;
- (b). If the act or violation is in its nature continuous in respect to time, the fine for allowing the continuance of the prohibited unlawful act or omission, in violation of the ordinance, shall be \$500 a day for each day that the violation is unlawfully continued;
- (c). Any item, items, fences, gates (whether closed, locked or unlocked), obstacles, physical or functional encroachments within the roadway, road easement or right of way shall be moved by or at the expense of the owner of the property;
- (d). The county may exercise self-help and remove any item, items, fences, gates (whether closed, locked or unlocked), obstacles, physical or functional encroachments within the roadway, road easement or right of way of a county maintained public road and shall be reimbursed for the costs of removal;

(e). The citizen or landowner with standing, and/or County Judge, may pursue a declaratory and/or injunctive relief from a court of competent jurisdiction for removal of an obstruction to county maintained public road; or

(f). A.C.A. § 5-71-214 provides that: *“A person commits the criminal offense of obstructing a highway or public passage if, having no legal privilege to do so and acting alone or with another person, he or she renders a any highway or other public passage impassible to pedestrian or vehicular traffic.* A.C.A. § 5-71-214(c) further prescribes that the criminal penalty for: *“Obstructing a highway and other public passage is a Class A misdemeanor”*. The County Judge, any citizen or landowner may notify the Sheriff of the violation. The criminal penalties under A.C.A. AC.A. § 5-71-214 are not in lieu of the civil penalties prescribed by this Ordinance but in addition thereto.

ARTICLE 5: Severability

If any provision of this Ordinance is found to be invalid by the decision of any court of competent jurisdiction, such invalidity shall not affect the remaining sections, phrases, and provisions of this Ordinance which remain valid and enforceable.

ARTICLE 6: Emergency Clause

The Quorum Court finds that the immediate implementation of this Ordinance is necessary for the preservation of the public’s peace, health, safety, welfare, and property, an emergency is hereby declared to exists and that this Ordinance is to be in effect immediately after its adoption.

PASSED AND APPROVED this 10th day of September, 2024.

In accordance with the requirements of Ark. Code Ann. 14-14-116, this publication is paid for from the budget of the Boone County Quorum Court. The total cost of this publication is _____.

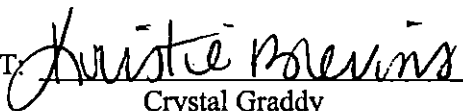
SUBMITTED BY: Justice Ralph Guynn

APPROVED: _____



Robert Hathaway
Boone County Judge

ATTEST: _____



Crystal Graddy
Boone County Clerk