

ORDINANCE 08-11

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

AN ORDINANCE ESTABLISHING CERTAIN RULES AND REGULATION RELATED TO THE FAULKNER COUNTY ROAD SYSTEM, ESTABLISHING AND MAINTAINING A PERMIT AND BOND PROCEDURE FOR HEAVY HAUL OPERATIONS UTILIZING COUNTY ROADS, ESTABLISHING AND MAINTAINING THE COUNTY ROAD POLICE AGENCY, SETTING FORTH THE PROVISIONS, PROCEDURES, AND PENALTIES THEREIN, AND FOR OTHER PURPOSES.

WHEREAS, the county has a duty to preserve peace and order and secure freedom from dangerous or noxious activities and, to that end, create and maintain a county road system to provide safe and consistent passage throughout the county, and the increased unregulated traffic on the Faulkner County Road System causes property damage and unsafe and dangerous conditions, which could result in circumstances that threaten the health, safety and security of the Faulkner County citizens; and

WHEREAS, the county has a significant investment in the county road system and it is incumbent upon the county to protect that investment against waste, deterioration, and destruction; and

WHEREAS, Increasing industrial and commercial development and associated transportation has occurred throughout several locations in the unincorporated parts of Faulkner County, and the county desires to mitigate the damage and destruction to its system of county roads caused by these commercial vehicles which, if left unchecked, may exceed the weight limit on the Faulkner County Road system, causing damage to Bridges, overpasses, and road surfaces. By providing for a permit and bonding mechanism for entities operating heavy hauling equipment over the county road system, the county furthers its objective of not unduly burdening its tax payers and committing waste with regard to the tax payers' investments in the county road system; and

WHEREAS, the county deems it necessary to afford the County Judge the means to enforce the rules and regulations promulgated by this body and any other laws, local, state or federal through the employment of a certified law enforcement officer under the supervision of the Faulkner County Judge or his designee.

NOW THEREFORE BE IT ORDAINED BY THE QUORUM COURT OF FAULKNER COUNTY, ARKANSAS:

Section 1: Authority – Pursuant to Arkansas Code Annotated sections 27-35-101 et seq; Arkansas Act 300 of 1937; Act 742 of 1977, as amended, and the Arkansas Constitution, the county’s permit, bond, and enforcement procedures for regulating heavy haul operations associated with their respective uses of the Faulkner County Road system are set forth herein.

Section 2: Jurisdiction – The heavy haul permit, bond, and county road police ordinance is hereby established and the following jurisdiction applies:

- a. The heavy haul permit and bonding sections of this ordinance shall apply to all county roads, highways, structures and streets within Faulkner County, Arkansas, provided these roads, highways, structures, and streets do not fall under the jurisdiction of any city within the county or are State and/or Federal Highways.
- b. The Faulkner County Road Police sections of this ordinance shall apply to all county roads, highways, structures, and streets within Faulkner County, Arkansas, provided there is no prohibition specified by law.

Section 3: Adoption of Rules and Regulations by Reference – The permit and bond administrative rules and regulations promulgated by the Faulkner County Judge’s Office on behalf of Faulkner County filed with the County Clerk’s Office contemporaneously with this Ordinance, adopted, and attached hereto as Exhibit “A” as if set forth herein fully word for word and is hereby established as the Faulkner County Procedures for Heavy Haul Operations Over County Roads.

Section 4: Penalties - Any person, business, manufacturer, refiner, retailer, wholesaler, or transporter in the private sector who pleads guilty or nolo contendere to or is found guilty of violating any provision(s) of this ordinance shall be guilty of a misdemeanor and be fined not more than two hundred-fifty dollars (\$250) per day of violation.

Section 5: Maps or Other Specific Means of Identifying Bridge Load Limits – the County Judge shall attach to each permit issued a map or other specific document designating and identifying the load limits for each county bridge.

Section 6: Notification of Bond Amounts for County Roads – attached Exhibit “A” shall set forth the mechanism with which the County Judge or his designee utilizes in setting and enforcing bond amounts for each county road.

Section 7: Civil Liability for Damaging Roads - Any person, business, manufacturer, refiner, retailer, wholesaler, or transporter in the private sector driving any vehicle, object, or contrivance upon any county road, highway or structure therein shall be civilly liable to the County for all damage which the highway or structure may sustain as a result of any careless, negligent, or illegal operation, driving, or moving of that vehicle, object, or contrivance, or as a result of operation, driving, or moving of any vehicle, object, or contrivance of excessive width or weighing in excess of the maximum weight as set forth in this Ordinance.

Section 8: Extreme Climatic Conditions – The County Judge may prohibit the operation of vehicles upon any highway or impose restrictions as to the weight of vehicles to be operated upon any highway, for a total period of not to exceed ninety (90) days in any one (1) calendar year, whenever the highway, by reason of deterioration, rain, snow, or other climatic conditions will be seriously damaged or destroyed unless the use of vehicles thereon is prohibited or the permissible weights thereof reduced.

Section 9: Creation of Faulkner County Road Enforcement Division – The Faulkner County Road Enforcement Division of the Faulkner County Road Department is hereby created and shall consist of, but not be limited to, at least one certified law enforcement officer and the necessary training and equipment to carry out the County’s mandates and any and all other laws, rules, regulations, and certifications associated with employing a certified law enforcement officer.

Section 10: Supervision – The County Judge shall oversee the operation of the Faulkner County Road Enforcement Division of the Faulkner County Road Department and shall establish rules and regulations governing employees of the Faulkner County Road Enforcement Division consistent with the mandates of this Ordinance and all other state, federal, or local laws or ordinances to be enforced by this office.

Section 11: Authority – The Faulkner County Road Enforcement Division of the Faulkner County Road Shop shall have the power and authority to enforce all laws associated with the unlawful operation of motor vehicles as they relate to Faulkner County’s road system, which shall include, but not be limited to, the authority to weigh vehicles and require removal of excess loads pursuant to A.C.A. § 27-35-101 *et seq.* and for all other lawful purposes not inconsistent with Arkansas law.

Section 12: Severability – If any provision of this ordinance is held invalid, such invalidity shall not affect the remaining provisions of the ordinance which remains effective absent the invalid provision, and to this end, the provisions of the ordinance are declared to be severable.

Section 13: Emergency Clause – In order to protect the Faulkner County taxpayers’ investment in the county road system and to provide for necessary administrative and enforcement authority to manage the Faulkner County Road System, an emergency exists, and this ordinance, being for the immediate preservation of the public peace, health, and safety shall be in full force and effect from after its passage and approval.

Dated:

Dated:

Attest: _____
Jeff Johnston
Quorum Court Secretariat
Faulkner County, AR

Approved: _____
Preston Scroggin
Faulkner County Judge
Faulkner County, AR