

AGENDA
Cleburne County Quorum Court
Thursday, May 13, 2021
6:00 p.m.

Cleburne County Court Building
922 South 9th Street
Heber Springs, AR 72543

1. **Call to Order, Roll Call:**
2. **Reading, Correction, and Disposition of Minutes:**
3. **Report of Treasurer:**
4. **Report of Committees:**
 - a. Jail Committee-**JP Evans**
 - b. Ambulance Committee-**JP Foust**
5. **Unfinished Business:**
 - a. None
6. **New Business:**
 - a. Library Board Appointment-**Judge Holmes**
 - b. Board of Equalization Appointments-**Judge Holmes**
 - c. Veto of Ordinance 2021-011 titled "Bill of Rights Sanctuary for Cleburne County"
 - d. Proposed Ordinance No. 2021-American Rescue Plan Fund-**JP Foust**
 - e. Proposed Ordinance No. 2021-Traffic Ordinance-**JP Pearson**
7. **Comments from the Public:**
8. **Announcements:**
 - a. Next Regular Quorum Court Meeting Thursday, June 10, 2021.
9. **Adjournment:**

CLEBURNE COUNTY QUORUM COURT JOURNAL OF PROCEEDINGS

April 8, 2021

The Cleburne County Quorum Court met in regular session in the County Court Building, 922 South 9th Street, Heber Springs, Arkansas. The meeting was called to order at 6:03 p.m. County Judge Jerry Holmes presided. PRESENT: Pearson, Henegar, Caldwell, Blackburn, Malone, Evans, Martin, Foust, Tamburo, Roberts, Owens.

READING, CORRECTION, AND DISPOSITION OF MINUTES:

Motion was made by JP Caldwell to approve the minutes of the March 11, 2021 regular meeting, seconded by JP Martin. Voice vote, motion carried.

REPORT OF TREASURER:

Motion was made by JP Caldwell to accept the Treasurer's report, seconded by JP Owens. Voice vote, motion carried.

REPORT OF COMMITTEES:

Jail Committee: JP Evans reported the committee met the morning of April 8, 2021 and reviewed drawings that had been received from Benchmark Company but were over cost, so committee will be looking into other options. One option was a facility out back that would stand alone initially for possible maximum security but could still use kitchen of current jail. This would allow to update jail in phases. Mr. Sterling seemed to be ok with this. The jail committee will keep working. As for now the Jail is still in compliance.

Ambulance Committee: JP Foust reported that after the Ambulance Committee meeting, the committee hopes to have something more concrete to present to the court at the next Quorum Court meeting.

UNFINISHED BUSINESS:

Proposed Ordinance No. 2021-Bill of Rights Sanctuary for Cleburne County

JP Blackburn placed Ordinance on the Third Reading: **BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF CLEBURNE, STATE OF ARKANSAS; AND ORDINANCE TO BE ENTITLED: "BILL OF RIGHTS SANCTUARY FOR CLEBURNE COUNTY"**.

JP Blackburn read the Ordinance. JP Blackburn made a motion to adopt the Ordinance, seconded by JP Roberts. County Attorney, Drew Smith, advised that the Court does not have the authority to pass this Ordinance, but the State does have the authority. JP Blackburn replied that he has been encouraged to move on with the Ordinance. Discussion followed, with comments from the public, concerning bills that are currently in the Arkansas Legislature and what affects this Ordinance may have on county residence and county employees. JP Malone made a motion to amend the Ordinance by removing Section 4, items 9, 10, and 11. Mr. Smith did advise to be careful with amending the Ordinance substantially on a third reading because it could put amended Ordinance on a first reading. JP Malone added, in his opinion, this was not substantial enough to put back on first reading. After additional discussion to amend Ordinance further, Mr. Smith advised that if amended any more than stated, he would recommend putting it back on first reading. JP Malone restated motion to amend, seconded by JP Blackburn. Roll call was taken. Ayes: Blackburn, Evans, Malone, Martin, Pearson, Roberts, Tamburo. Nays: Caldwell, Foust, Henegar, Owens. JP Blackburn made a motion to adopt the Ordinance as amended, seconded by Malone. Discussion followed. JP Henegar called for the question. Roll call was taken. Ayes: Blackburn, Malone, Martin, Pearson, Roberts, Tamburo. Nays: Caldwell, Evans, Foust, Henegar, Owens. **Passed and adopted as Ordinance 2021-011.**

NEW BUSINESS:

Judge Holmes reported on the 2019 Legislative Audit. No findings were made by Legislative Audit. Treasurer, Pam Gray, explained the audit mention of unauthorized withdrawal of funds. Funds were recovered and auditors did reassure Ms. Gray that she correctly did all that could have been done. The auditors did advise they have to put in audit not because something was done wrong, but because it happened.

Proposed Ordinance No. 2021-Amend Ordinance 2020-030-Sheriff

JP Evans introduced an Ordinance: **BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF CLEBURNE, STATE OF ARKANSAS; AN ORDINANCE TO BE ENTITLED: "AN ORDINANCE AMENDING THE NUMBER OF POSITIONS AND STARTING SALARIES FOR NON-ELECTED COUNTY POSITIONS"**.

JP Evans made a motion to suspend the rules and place the Ordinance on a second reading by title only, seconded by JP Roberts. Roll call was taken. Ayes: Blackburn, Caldwell, Evans, Foust, Henegar, Malone, Martin, Owens, Pearson, Roberts, Tamburo. Nays: None. JP Evans read the Ordinance by title only. JP Evans made a motion to suspend the rules and place the Ordinance on a third and final reading by title only, seconded by JP Tamburo. Roll call was taken. Ayes: Blackburn, Caldwell, Evans, Foust, Henegar, Malone, Martin, Owens, Pearson, Roberts, Tamburo. Nays: None. JP Evans read the Ordinance by title only. JP Evans made a motion to adopt the Ordinance, seconded by JP Martin. Discussion followed. JP Henegar made a motion to amend Ordinance making it retroactive to January 1, 2021, seconded by JP Martin. Voice vote, motion carried. JP Henegar made a motion to adopt the Ordinance as amended, seconded by JP Pearson. Roll call was taken. Ayes: Blackburn, Caldwell, Evans, Foust, Henegar, Malone, Martin, Owens, Pearson, Roberts, Tamburo. Nays: None. JP Evans made a motion to adopt the Emergency Clause, seconded by Blackburn. Roll Call was taken. Ayes: Blackburn, Caldwell, Evans, Foust, Henegar, Malone, Martin, Owens, Pearson, Roberts, Tamburo. Nays: None.

Passed and adopted as Ordinance 2021-012.

Proposed Ordinance No. 2021-Amend Sheriff Employee Compensation

JP Evans introduced an Ordinance: **BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF CLEBURNE, STATE OF ARKANSAS; AN ORDINANCE TO BE ENTITLED: "AN ORDINANCE AMENDING ORDINANCE 2013-023 SHERIFF'S OFFICE EMPLOYEE COMPENSATION FOR ASSIGNED DUTIES"**.

JP Evans made a motion to suspend the rules and place the Ordinance on a second reading by title only, seconded by JP Blackburn. Roll call was taken. Ayes: Blackburn, Caldwell, Evans, Foust, Henegar, Malone, Martin, Owens, Pearson, Roberts, Tamburo. Nays: None. JP Evans read the Ordinance by title only. JP Evans made a motion to suspend the rules and place the Ordinance on a third and final reading by title only, seconded by JP Martin. Roll call was taken. Ayes: Blackburn, Caldwell, Evans, Foust, Henegar, Malone, Martin, Owens, Pearson, Roberts, Tamburo. Nays: None. JP Evans read the Ordinance by title only. JP Evans made a motion to adopt the Ordinance, seconded by JP Martin. Discussion followed. JP Malone made a motion to amend Ordinance making it retroactive to January 1, 2021, seconded by JP Blackburn. Voice vote, motion carried. JP Evans made a motion to adopt the Ordinance as amended, seconded by JP Henegar. Roll call was taken. Ayes: Blackburn, Caldwell, Evans, Foust, Henegar, Malone, Martin, Owens, Pearson, Roberts, Tamburo. Nays: None. JP Evans made a motion to adopt the Emergency Clause, seconded by JP Blackburn. Roll Call was taken. Ayes: Blackburn, Caldwell, Evans, Foust, Henegar, Malone, Martin, Owens, Pearson, Roberts, Tamburo. Nays: None.

Passed and adopted as Ordinance 2021-013.

Proposed Ordinance No. 2021-Amend Law Library Budget

JP Malone introduced an Ordinance: **BE IT ENACTED BY THE QUORUM COURT OF CLEBURNE COUNTY, STATE OF ARKANSAS; AN ORDINANCE TO BE ENTITLED: "AN APPROPRIATION ORDINANCE AMENDING ORDINANCE 2020-032 WHICH ADOPTED THE BUDGET FOR THE CALENDAR YEAR 2021, APPROVING ADDITIONAL FUNDING FROM THE LAW LIBRARY BUDGET FOR INTERNET RENOVATION"**.

JP Malone made a motion to adopt the Ordinance, seconded by JP Roberts. Brief discussion followed. Roll call was taken. Ayes: Blackburn, Caldwell, Evans, Foust, Henegar, Malone, Martin, Owens, Pearson, Roberts, Tamburo. Nays: None.

Pass and adopted as Ordinance 2021-014.

COMMENTS FROM THE PUBLIC:

ANNOUNCEMENTS:

- The next regular Quorum Court meeting will be held Thursday, May 13, 2021.

ADJOURNMENT:

JP Caldwell made motion to adjourn, seconded by JP Malone. Meeting adjourned at 7:55 p.m.

ATTESTED:

Rachelle Evans, Cleburne County Clerk

This _____ day of _____ 2021

Book _____ Page(s) _____

Office of the
CLEBURNE COUNTY JUDGE
Jerry Holmes
300 West Main Street Heber Springs, AR 72543
501-362-8141 Fax 501-362-4605

Tuesday, April 13, 2021

TO BE FILED WITH THE CLEBURNE COUNTY CLERK'S OFFICE

Dear Quorum Court Members and Cleburne County Elected Officials,

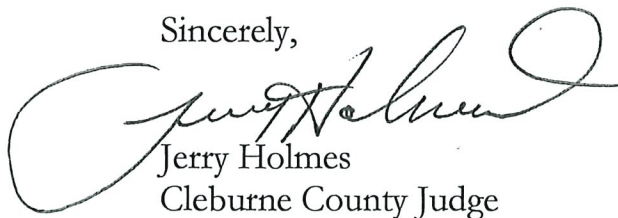
Pursuant to Arkansas Code Annotated §14-14-911, I inform you today that I vetoed, or am vetoing, Cleburne County Ordinance 2021-011, Titled: "Bill of Rights Sanctuary for Cleburne County". I believe this Ordinance could create unnecessary and preventable liability on the County as discussed in prior Quorum Court meetings. Additionally, I do not believe that the County has the sovereign authority to override or supersede established Arkansas law on this matter.

Additionally, the State of Arkansas, through the House of Representatives, has introduced a bill (HB1435) that mirrors this exact Ordinance, which directly addresses all the concerns voiced during the discussions of this Ordinance. The State currently has pending House Bill 1386, House Bill 1435 and House Bill 1390 all of which are directly addressing Second Amendment issues that the Quorum Court is seeking to address in this Ordinance.

I request that pursuant to A.C.A. 14-14-911(e) that the County Clerk shall immediately provide this written notification to each member of the Quorum Court.

I look forward to continuing to work with the Quorum Court as we navigate these uncertain times within our Country.

Sincerely,



Jerry Holmes
Cleburne County Judge

FILED

2021 APR 13 AM 9:59

RACHELLE EVANS
CLEBURNE COUNTY CLERK

ORDINANCE NO. 2021-011

BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF CLEBURNE, STATE OF ARKANSAS; AN ORDINANCE ENTITLED: "BILL OF RIGHTS SANCTUARY FOR CLEBURNE COUNTY".

Section 1. The Quorum Court of Cleburne County hereby finds and declares:

Section 2.

A. In order to ensure the rights of the citizens of Cleburne County which are protected by the United States Constitution, and the Bill of Rights of that Constitution, which reserves the right of the citizens to decide on matters which concern their lives, liberty, and property in the ordinary course of affairs.

Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Amendment II

A well-regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

Amendment III

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner; nor in time of war, but in a manner to be prescribed by law.

Amendment IV

The right of the people to secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and persons or things to be seized.

Amendment V

No person shall be held to answer for a capital, or infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in a militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

Amendment VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed; which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense.

Amendment VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of common law.

Amendment VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

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Amendment IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Amendment X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

B. The Quorum Court further finds that section 1 of the Fourteenth Amendment to the Constitution of the United States, all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. (Passed by Congress June 13, 1866, Ratified July 9, 1868.)

C. The right of the people is further protected from infringement by State, Federal and local governments under the ninth, tenth, and fourteenth amendment of the Constitution of the United States.

D. Cleburne County has the right to be free from the commanding hand of the State and Federal government and has the right to refuse to cooperate with state and federal government officials in response to unconstitutional state and federal government measures, and to proclaim a Bill of Rights Sanctuary for law-abiding citizens in their cities and county.

E. Therefore, through the enactment of this document, Cleburne County Arkansas is hereby declared to be a BILL of Rights Sanctuary County.

Section 3.

A. Notwithstanding any law, regulation, rule or order to the contrary, no agent, department, employee or official of Cleburne County, a political subdivision of the State of Arkansas, while acting in their official capacity, shall.

B. Knowingly and willingly, participate in any way in the enforcement of any unlawful or unconstitutional act, as defined herein, regarding Freedom of religion, Freedom of speech, Freedom of the people to peaceably assemble, Freedom of the press, Freedom to petition the government for a redress of grievances, the right of the people to keep and bear arms, will not be infringed and Amendment 1-27 of the Bill of Rights.

Section 4.

A. An "Unlawful Act" shall consist of any federal, state or local act, law, order, rule, or regulation, which restricts an individual's Constitutional rights. Any such "unlawful act" is invalid in Cleburne County and shall not be recognized by Cleburne County, and shall be considered null and void and of no effect in Cleburne County, Arkansas, and this shall include, but shall not be limited to the following:

1. Any tax, levy, fee, or stamp imposed on firearms, firearm accessories, or ammunition not common to all other goods and services on the purchase or ownership of those items by citizens;
2. Any registration or tracking of firearms, firearm accessories, or ammunition;
3. Any registration or tracking of the owners of firearms, firearm accessories, or ammunition;
4. Any act forbidding the possession, manner of carry, ownership, or use or transfer of any type of firearm, firearm accessory, or ammunition by citizens of the legal age;
5. Any act ordering the confiscation of firearms, firearm accessories, or ammunition from citizens;
6. Any prohibition, regulation, and or use restriction related to ownership or the constitutionally guaranteed lawful use or carry of firearms;
7. Any use of County funds or funds given to the County by any entity, to participate in a "gun buyback" program or event is hereby illegal;

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8. Any use of County Funds, or funds given to the county by any entity to any other government official or entity that violates or has violated any individual's rights as outlined in the Bill of Rights;

B. Exceptions:

1. The right to bear arms protection as provided to citizens by this ordinance does not apply to persons who have been, or may be in the future, convicted of felony crimes.
2. This ordinance is not intended to prohibit or affect in any way the prosecution of any crime for which the use of, or possession of, a firearm is an aggravating factor or enhancement to an otherwise independent crime, unless such crimes have been expunged by order of a court of competent jurisdiction.

Section 5. SEVERABILITY

The provisions of this act are hereby declared to be severable, and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this ordinance.

Section 6. EMERGENCY CLAUSE

It is found by the Quorum Court of Cleburne County that the citizens of Cleburne County, Arkansas have taken notice and voiced concerns for their rights under the U.S. Constitution and Bill of Rights. Therefore, an emergency is declared to exist and this ordinance known as the Bill of Rights Sanctuary Ordinance shall be in full force and effect from the date of passage and approval.

PASSED AND ADOPTED this 8th day of April 2021.

ATTEST:

APPROVED:

Rachelle Evans, Cleburne County Clerk

Jerry Holmes, Cleburne County Judge

Recorded: Book _____ Page(s) _____

PROPOSED ORDINANCE NO. 2021-AMERICAN RESCUE PLAN FUND

BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF CLEBURNE, STATE OF ARKANSAS; AN ORDINANCE TO BE ENTITLED: “AN ORDINANCE ESTABLISHING A SPECIAL REVENUE FUND TO BE CALLED THE AMERICAN RESCUE FUND; AND TO DECLARE AN EMERGENCY”.

Article 1. Affirmation.

It comes before this Court that there is a need to establish a special revenue fund on the books of the county to track the revenues, expenditures and/or appropriated transfers of federal assistance through the American Rescue Plan Act. This Court recognizes and affirms the need for such a fund to properly account for and control all such revenues received and expenditures made in compliance with all applicable laws and guidance from the U.S. Treasury.

Article 2. Establishment of Fund.

There is hereby created on the books of the Cleburne County Treasurer and the books of the Cleburne County Clerk or Comptroller a special revenue fund to be known as the American Rescue Plan Fund with a fund number of 3046 as assigned by Arkansas Legislative Audit. The revenue code for the federal assistance through the ARP Act, as assigned by Legislative Audit, is 7112 – Federal Coronavirus Relief.

Article 3. Operation of Fund.

The American Rescue Plan Fund is subject to all the normal county budgeting, appropriation and expenditure regulations of Arkansas Code Annotated, Title 14 and the County Financial Management System implemented in accordance with § 14-21-101. Funds must be used only in accordance with guidelines issued by the U.S. Treasury concerning the legal expenditures of revenues received pursuant to the American Rescue Plan Act of 2021 (P.L. 11-2), which established the Federal Coronavirus State and Local Fiscal Recovery Fund. Proper records and documentation must be maintained for federal audit purposes.

Article 4. Emergency Clause.

It is found by this Court that the deposit of federal assistance funds from the American Rescue Plan Act are imminent making it necessary to establish the American Rescue Plan Fund in order to be able to properly track the revenue, appropriated expenditures and/or appropriated transfers. Therefore, an emergency is declared to exist, and this ordinance shall be in full force and effect from the date of passage and approval.

PASSED AND ADOPTED this _____th day of _____ 2021.

ATTEST:

APPROVED:

Rachelle Evans, Cleburne County Clerk

Jerry Holmes, Cleburne County Judge

Recorded: Book _____ Page(s) _____

PROPOSED ORDINANCE NO. 2021-TRAFFIC ORDINANCE

BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF CLEBURNE, STATE OF ARKANSAS; AN ORDINANCE TO BE ENTITLED: “AN ORDINANCE FOR THE ESTABLISHMENT OF CERTAIN DRIVING VIOLATIONS AND PENALTIES TO BE IMPOSED UPON CONVICTION”.

WHEREAS, the Quorum Court recognizes the importance of safe driving and need for a continuing effort to ensure the safety and welfare of those who travel in Cleburne County and recognizes certain violations will transpire as listed in Chapter 27 of the Arkansas State Code and pursuant to Act 300 of 1977 codified at A.C.A. [27-51-101](#);

WHEREAS, the Quorum Court, is in support of the operations to hold accountable violators of traffic laws applicable to Cleburne County, and pursuant to statutory authority Arkansas State Codes [14-20-101](#) and [14-14-809](#); this Court directs the following:

NOW THEREFORE, BE IT ENACTED BY THE QUORUM COURT OF CLEBURNE COUNTY, ARKANSAS:

Section 1: Definitions

As used in this section, unless the context otherwise requires:

- (1) “Local authorities” means all officers in and of Cleburne County, cities, villages, incorporated towns, or townships; and
- (2) “Public highways” means any highway, county road, state road, public street, avenue, alley, park, parkway, public driveway, or any other public road or private road used by the public or public place in Cleburne County and any, city, village, or incorporated towns with in Cleburne County.

Section 2: Violations and Fines

- (1) Any person violating the provisions of this ordinance, except as otherwise provided in this ordinance, upon conviction, be fined as provided by the provisions of this ordinance.
- (2)(a) Any offender who shall have been found guilty of any violation of any section of this ordinance shall be fined and any who shall within six (6) months thereafter be convicted of a second violation of such section, may be fined a sum not exceeding double the penalty provided for in this ordinance for a first violation.
- (b) For a third conviction and subsequent violation of a section within six (6) months after the date of such violation, he or she may be fined a sum not exceeding triple the penalty provided for in this ordinance for a first violation.
- (3) Any person convicted of violating this ordinance may in addition to other mandated cost, be fined and ordered to complete a period or periods of community service. The sum of the fine for a first offense is not to exceed three hundred dollars (\$300.00) and/or eight (8) hours of community service, or both, at the discretion of the court.
- (4) All fines imposed for the violation of any of the provisions of this ordinance shall be collected and deposited with the County Treasurer to be divided as follows: Fifty percent (50%) of the proceeds shall be deposited into the Cleburne County General Fund. The remaining fifty percent (50%) shall be deposited into the newly established Rural Fire Departments Fund for equal dispersion to the Cleburne county volunteer fire departments, excluding Heber Springs Fire department.

Section 3: Careless or Imprudent Driving Violations

- (1) It shall be unlawful for any person to drive or operate any vehicle in such a careless manner as to evidence a failure to keep a proper lookout for other traffic, vehicular or otherwise, or in such a manner as to evidence a failure to maintain proper control on the public thoroughfares or publicly used private properties in the County of Cleburne.
- (2) It shall be unlawful for any person to operate or drive any vehicle on the public thoroughfares or publicly used private properties in the County of Cleburne in violation of the following prohibited acts:
 - (a) Improper or unsafe lane changes on public roadways;
 - (b) Driving onto or across private property to avoid intersections, stop signs, traffic control devices, or traffic lights;

PROPOSED ORDINANCE NO. 2021-TRAFFIC ORDINANCE

- (c) Driving in such a manner or at such a speed so as to cause a skidding, spinning, or sliding of tires or a sliding of the vehicle;
- (d) Driving too close to or colliding with parked or stopped vehicles, fixtures, persons, or objects adjacent to the public thoroughfares;
- (e) Driving a vehicle which has any part thereof or any object extended in such fashion as to endanger persons or property;
- (f) To operate any vehicle in such a manner which would cause a failure to maintain control;
- (g) To operate or drive a vehicle wherein or whereon passengers are located in such a manner as to be dangerous to the welfare of such passengers; or
- (h) To operate a vehicle in any manner when the driver is inattentive and such inattention is not reasonable and prudent in maintaining vehicular control.

Section 4: Restrictions

- (1)(a) No person shall drive a vehicle on a roadway at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing.
- (b) In every event, speed shall be so controlled as may be necessary to avoid colliding with any person, vehicle, or other conveyance on or entering the roadway in compliance with legal requirements and the duty of all persons to use due care.
- (2)(a) The maximum speed limits set forth in subsection (c) of this section shall not apply to controlled-access highways should such highways be developed.
- (b)(1) Upon investigation, the Cleburne County Judge shall determine the maximum permissible speeds on county roads, which shall be effective when appropriate signs giving notice are erected along the road.
- (2) The County Judge may fix the maximum permissible speed of trucks with a capacity of one-and-one-half tons or more at ten miles per hour (10 m.p.h.) below the maximum permissible speed for automobiles.

Section 5: Impeding flow of traffic

No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with the law.

Section 6: School zones

No person shall operate a motor vehicle in excess of twenty-five miles per hour (25 m.p.h.) when passing a school building or school zone during school hours when children are present and outside the building.

Section 7: Following too closely

- (1) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of vehicles and the traffic upon and the condition of the roadway.
- (2) The provisions of this subsection shall not be construed to prevent overtaking and passing.

Section 8: Overtaking vehicles

The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions, and special rules stated:

- (1)(a) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle; and
- (b) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall yield to the right in favor of the overtaking vehicle and shall not increase the speed of his or her vehicle until completely passed by the overtaking vehicle
- (c)(1) No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless the left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit overtaking and passing to be completely

PROPOSED ORDINANCE NO. 2021-TRAFFIC ORDINANCE

made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken.

- (2)(a) In every event, the overtaking vehicle must return to the right-hand side of the roadway before coming within one hundred feet (100') of any vehicle approaching from the opposite direction.
- (b) No vehicle shall, in overtaking and passing another vehicle or at any other time, except upon a one-way roadway, be driven to the left side of the roadway, under the following conditions:
- (c) When approaching the crest of a grade or upon a curve in the roadway where the driver's view along the roadway is obstructed;
- (d) When approaching within one hundred feet (100') of or traversing any intersection;
- (e) When the view is obstructed upon approaching within one hundred feet (100') of any bridge, and
- (f) Where official signs are in place directing that traffic keep to the right or a distinctive center line is marked.

Section 9: Restrictions not applicable to emergency vehicles

- (1)(a) The prima facie limitations set forth in these section shall not apply to authorized emergency vehicles when responding to emergency calls when the driver thereof is operating the vehicle's emergency lights and is also operating an audible signal by bell, siren, or exhaust whistle if other vehicles are present, unless the operation of emergency lights and or audible signal would jeopardize the safety of those being responded too.
- (b) This section shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the street, nor shall it protect the driver of any emergency vehicle from the consequence of a reckless disregard of the safety of others.
- (c) For purposes of this section, "emergency calls" means legitimate emergency situations which call for the operation of an emergency vehicle, including a police, fire or ambulance vehicle.

Section 10.

All Ordinances and parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

PASSED AND ADOPTED this ____th day of _____ 2021.

ATTEST:

APPROVED:

Rachelle Evans, Cleburne County Clerk

Jerry Holmes, Cleburne County Judge

Recorded: Book _____ Page(s) _____