

EFFECTIVE DATE: 7/29/02

ORDINANCE 01-02-29

AN ORDINANCE AMENDING CHAPTER 5.6 OF THE CODE OF ORDINANCES, HIGHLANDS COUNTY, FLORIDA, BY ADDING THERETO A NEW ARTICLE III ESTABLISHING NOISE CONTROL IN HIGHLANDS COUNTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HIGHLANDS COUNTY, FLORIDA, after due notice and public hearing, that:

SECTION 1. Amendment. Chapter 5.6 of the Code of Ordinances, Highlands County, Florida, is amended by the addition of a new Article III which is adopted to read as follows:

ARTICLE III. NOISE CONTROL

Sec. 5.6-100. Short title.

This Article shall be known and may be cited as the "Highlands County Noise Control Ordinance."

Sec. 5.6-101. Scope.

This Article shall be in effect in the unincorporated areas of the Highlands County, Florida.

Sec. 5.6-102. Purpose.

It is the purpose and intent of this Article to prevent, prohibit and provide for the abatement of excessive and unnecessary noise which degrades the quality of life, disturbs the public peace, and jeopardizes the health, safety and welfare of the citizens of Highlands County. It is further the intent of this Article to recognize that factors such as the time of day, location (e.g., proximity to residences), and necessity of sounds incidental to allowed uses and activities must be considered in balancing the protection of public peace with individual freedoms and private property rights.

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 DEPT. OF COUNTY CLERK
 TALLAHASSEE, FLORIDA

Sec. 5.6-103. Definitions.

For the purpose of this Article, the definitions contained in this section shall apply unless otherwise specifically stated. When not inconsistent to the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Use of the masculine gender shall include the feminine gender. The word "shall" is always mandatory and not merely discretionary.

A-weighted sound level means sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated "dBA" and best simulates that of a human hearing.

Ambient Noise means the all-encompassing noise associated with a given environment, being a composite of sound from many sources near and far.

ANSI means the American National Standards Institute or its successor bodies.

Construction Equipment and Activity means any site preparation, assembly, erection, excavation, substantial repair, alteration, or improvement of realty, whether publicly or privately owned, and whether above ground or below ground.

Decibel means a unit of measure used to gauge the intensity of a sound; the mathematical formula for which is expressed as the volume of sound which is equal to twenty(20) times the logarithm to the base ten(10) of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound (twenty(20) micropascals; abbreviated "dB."

Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma to human beings, living creatures, or property damage which necessitates immediate action.

Emergency work means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency, including work necessary to restore property to a safe condition following an emergency.

Code enforcement officer means law enforcement officers employed by the Highlands County Sheriff's Office and Code Enforcement Officers and Animal Control Officers employed by the Highlands County Board of County Commissioners.

Multifamily dwelling unit means a building or structure designed or used exclusively for residential occupancy by two(2) or more families including, but not limited to, apartments, condominiums, townhouses, or duplexes.

Noise means any sound which is unwanted, annoys, or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

Noise disturbance means sound which (a) is harmful or injurious to the health or welfare of a reasonable person with normal sensitivities, or (b) unreasonably interferes with the enjoyment or normal conduct of life, property or outdoor recreation.

Person means any individual, association, partnership, corporation, governmental agency, business trust, estate, trust, joint venture or any entity public or private in nature.

Plainly audible means clearly loud enough to be heard through perception of the human ear. In such cases, the location of the source of the noise and the type of the noise being generated can be readily described.

Real property line means an imaginary line along the surface of land including its vertical extension that separates one parcel of real property from another.

Reasonable time means such length of time as may fairly and properly be allowed or required to eliminate or abate a noise found to be in violation of this Article after a warning has been issued. The duration of time shall be dependent on the source of the noise and what action can be taken to eliminate the noise causing said violation.

Receiving land means land area neighboring or in the vicinity of a sound source and on which the sound emanating from the sound source is audible to the normal human ear.

Sound means an oscillation in pressure, stress, particle displacement, particle velocity or other physical parameter in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity, and frequency.

Sound level means the weighted sound pressure level obtained by the use of a metering characteristic and weighting A, B or C as specified in American National Standards Institute specifications for sound level meters ANSI S1.4-1971, or in successor publications. If the weighting employed is not indicated, the A-weighting shall apply.

Sound level meter means an instrument including a microphone, an amplifier, RMS detector, integrator or time averager, output meter, and frequency weighting networks for the measurement of noise and sound levels in a specified manner. The output meter reads sound pressure levels when properly calibrated according to the manufacturer's specifications.

Zoning district means any of the categories of land use designated in the Zoning regulations of Highlands County which can broadly be divided into four distinct uses being residential, commercial or business, industrial or manufacturing, and agricultural.

Sec. 5.6-104. Noise Restriction in General.

It shall be a violation of this section for any person to make, continue, or cause to be made or continued any excessive, unnecessary, or unreasonable noise which disturbs the peace, quiet or enjoyment of any neighborhood or residence or which would cause discomfort or annoyance to any reasonable person of normal sensitivities. Moreover, it shall be a violation of this section for any person to engage in any use or activity that creates any noise prohibited by the specific provisions of this Article. The following standards may be considered in determining whether a violation of this section exists:

- (a) The volume of the noise.
- (b) The intensity of the noise.
- (c) Time of day of the noise.
- (d) Time duration of the noise.
- (e) Whether the nature of the noise is usual or unusual.
- (f) The volume and intensity of the background noise, if any.
- (g) The proximity of the noise to residential areas.
- (h) The nature and zoning of the area from which the noise emanates.
- (i) The nature and zoning of the receiving land.

Sec. 5.6-105. Specific Noise Prohibitions.

Unless the noise is exempt from the standards and restrictions of this Article by reason of the provisions of Sec. 5.6-107 of this Article, the following standards and restrictions shall apply to uses and activities in the unincorporated area of Highlands County, Florida.

- (a) *Radios, television sets, musical instruments, and similar devices.* It shall be a violation of this section to use, operate, or permit to be played, used, or operated any radio receiving set, musical instrument, phonograph, television set, stereo set, cassette player, compact disc player, sound amplifier or other machine or device for the production or reproduction of sound in a manner which creates a noise disturbance which is plainly audible across a real property line of any residential zoning district or residential area between the hours of 9:00 p.m. of one day and 6:00 a.m. of the next day.

It shall be a violation of this section to use, operate, or permit to be played, used or operated any radio receiving set, musical instrument, phonograph, television set, stereo set, cassette player, compact disc player, sound amplifier or other machine or device for the production or reproduction of sound which is associated with a motor vehicle or vessel in a manner which creates a noise disturbance which is plainly audible one hundred (100) feet or more from such device when operated on a waterway, public right-of-way or public property.

- (b) *Construction equipment.* It shall be a violation of this section to operate any equipment used in construction activity, building, excavation, grading, pile driving, pneumatic

hammering, demolition, dredging, building alteration or repair work in a manner which is plainly audible across a real property line of any residential zoning district or residential area between the hours of 9:00 p.m. of one day and 6:00 a.m. of the next day, except for emergency work.

- (c) *Engine mufflers.* It shall be a violation of this section to operate any internal combustion engine, including such an engine associated with a motor boat or motor vehicle, without a muffler or other device, at least as effective as the manufacturer's original equipment, which will effectively prevent loud or explosive noises.
- (d) *Animals and birds.* It shall be a violation of this section for the owner or custodian of any animal or bird, other than a farm animal on real property zoned for agricultural use, to allow that animal or bird to frequently or continuously howl, bark, meow, squawk or make other sounds indigenous to such animal which creates a noise disturbance which is plainly audible across a residential or commercial real property line. It shall be a violation of this section for the owner or custodian of any dog to allow that dog to bark, bay, cry, howl or make any other similar noise continuously for a period of ten minutes or bark intermittently for one-half hour or more to the disturbance of any person at any time, day or night, regardless of whether the dog is physically situated in or upon private property. It shall not be a violation of this section, however, for any animal or bird to give a sound of danger warning under circumstances reasonably requiring the need for a warning.
- (e) *Vehicle, vessel, and motor repair in or abutting residential areas.* It shall be a violation of this section to repair, rebuild or test any motor vehicle, vessel or motor between the hours of 9:00 p.m. of one day and 6:00 a.m. of the next day on property within or abutting any residential zoning district or residential area in such a manner as to cause a noise disturbance which is plainly audible across a real property line of any residential zoning district or residential area.
- (f) *Activities in the vicinity of schools, courts, churches, and hospitals.* It shall be a violation of this section to create any noise on any street adjacent to any school, court, church or hospital which unreasonably interferes with the workings of such institution or which unduly disturbs or annoys patients in a hospital.
- (g) *Loading or unloading of vehicles, opening bales, and boxes.* It shall be a violation of this section to make, create or maintain a noise disturbance in connection with the loading or unloading of any vehicle or the opening or destruction of bales, boxes, crates or containers between 9:00 p.m. of one day and 6:00 a.m. of the next day which is plainly audible across a real property line of any residential zoning district or residential area.
- (h) *Peddlers, hawkers, or vendors.* It shall be a violation of this section for peddlers, hawkers or vendors to shout or cry along or on a roadway to the disturbance of the peace

or quiet of residents in a residential neighborhood or which is plainly audible across a real property line of any residential zoning district or residential area.

- (i) *Drums, cymbals, and loudspeakers.* It shall be a violation of this section to create, make or maintain any noise by the use of any drum, cymbals, loudspeaker or other similar instruments for the purpose of attracting attention to any place of business, sale or display of merchandise, performance or show. This provision shall not apply to ice-cream trucks.
- (j) *Bells or sirens on vehicles.* It shall be a violation of this section for any person to use in conjunction with any unauthorized vehicle any bell or siren similar to that used on ambulances or vehicles of the sheriff, fire departments, and other public safety agencies.
- (k) *Skateboard ramps.* It shall be a violation of this section to use any skateboard ramp or similar device between 9:00 p.m. of one day and 6:00 a.m. of the next day in a residential zoning district or residential area in a manner which results in a noise disturbance that is plainly audible across a real property line of any residential zoning district or residential area.
- (l) *Air-blow cleaners.* It shall be a violation of this section for any person to operate any air-blow cleaning equipment or similar device for the cleaning of parking lots, walkways, driveway or similar areas between the hours of 9:00 p.m. of one day and 6:00 a.m. of the next day that would result in a noise disturbance that is plainly audible across a real property line of any residential zoning district or residential area.
- (m) *Fixed mechanical equipment.* It shall be a violation of this section to use or operate any noise-creating air conditioner, compressor unit, power fan or blower, fixed electric motor or engine which causes a noise disturbance, unless that noise is muffled and deadened by adequate noise suppression and muffling devices to eliminate the noise disturbance across a real property line of any residential zoning district or residential area.
- (n) *Portable mechanical equipment.* It shall be a violation of this section to use or operate any power tools or portable mechanical equipment, including a power saw, sander, drill, grinder, lawn or garden tool, or similar device, when used outdoors in residential areas between the hours of 9:00 p.m. of one day and 6:00 a.m. of the next day so as to cause a noise disturbance that is plainly audible across a real property line of any residential zoning district or residential area.
- (o) *Places of public entertainment.* It shall be a violation of this section for any public entertainment establishment or person associated with or working for a public entertainment establishment to operate, play or permit the operation or playing of any radio receiving set, musical instrument, phonograph, television set, stereo set, cassette player, compact disc player, sound amplifier or other machine or device for the

production or reproduction of a sound between the hours of 9:00 p.m. of one day and 6:00 a.m. of the next day in such a manner as to create a noise disturbance that is plainly audible across a real property line of any residential zoning district or residential area.

- (p) *Landscape maintenance.* It shall be a violation of this section for any person to conduct landscape maintenance activities in such a manner as to create a noise disturbance that is plainly audible across a real property line of any residential zoning district or residential area between the hours of 9:00 p.m. of one day and 6:00 a.m. of the next day.

Sec. 5.6-106. Sound control standards.

- (a) *Sound levels prima facie but not exclusive.* The occurrence of the condition, acts or omissions described in the following subsections shall constitute a violation of this Article. The requirements of each of those subsections stand alone. Violations of the sound limits prescribed by this section shall constitute prima facie evidence of a violation of this Article. However, sound level measurements are not necessary for enforcement of this Article. Neither the sound level measurements made pursuant to this section nor any other sound measurement is necessary to prove a violation of this Article.
- (b) *Maximum sound level generated across real property lines.* The sound from any activity or from any permissible use of property within the applicable zoning district classifications of Highlands County or from the use of any vessel or other watercraft on the waters of Highlands County shall be deemed excessive, unnecessary, offensive or unusually loud if the total sound level due to both ambient sound and the alleged source of the excessive, unnecessary, offensive or unusually loud sound exceeds the sound levels prescribed in Table I of this section as measured in decibels on the A-Scale from the receiving property.

TABLE I. APPLICABLE SOUND LIMITS
Sound level in Decibels A-Scale(DBA)

<i>Zoning District</i>	<i>Day</i>	<i>Night</i>
	<i>6:00 a.m. - 9:00 p.m.</i>	<i>9:00 p.m. - 6:00 a.m.</i>
Agricultural	65	60
Residential	65	60
Commercial or Business	75	75
Industrial or Manufacturing	75	75

- (c) *Interior sound within multi-family dwelling units.* Notwithstanding any other provisions of this Article, it shall be a violation of this section for any person to create, maintain or cause to be maintained any sound for any period of time within the interior of any multi-family dwelling unit which causes the sound level in any other dwelling unit to exceed the limits prescribed in Table II of this section.

TABLE II: APPLICABLE SOUND LIMITS FOR MULTI-FAMILY DWELLING UNITS

Sound level in Decibels A-Scale (DBA)

	<i>Day</i> 6:00 a.m. - 9:00 p.m.	<i>Night</i> 9:00 p.m. - 6:00 a.m.
<i>Multi-Family Dwelling Units</i>	55	45

- (d) *Vessels and watercraft.* In accordance with Sections 327.65 and 327.60(1), Florida Statutes, no person shall operate or give permission for the operation of any vessel on the waters of Highlands County, in such a manner as to exceed a maximum sound level of 90 dbA at a distance of fifty (50) feet from the vessel.

Sec. 5.6-107. Exceptions.

The following uses and activities shall be exempt from noise and sound level regulations prescribed in this Article.

- (a) The emission of sound for the purpose of alerting persons to the existence of an emergency or the performance of emergency work. This exception shall not apply to fixed building or vehicular burglar alarms when sounded for a period in excess of 15 minutes.
- (b) Usual noises of construction and operation of construction equipment between the hours of 6:00 a.m. and 9:00 p.m.
- (c) Noises coming from normal operations of railroads.
- (d) Noises coming from normal operations of aircraft.
- (e) Noises coming from normal use of agricultural equipment.
- (f) Non-amplified crowd noise from activities such as those planned by student, governmental or community groups, or racing/sporting events.

- (g) Noises from motor vehicles engaged in a professional or amateur sanctioned, competitive sports event including practice and time trials.
- (h) Noises incident to mosquito control, weed control, and other governmental activities.
- (i) Noises from activities having a waiver or permit issued pursuant to Sec.5.6-108 of this Article.
- (j) Noises from work in a public right-of-way authorized by the County Engineer or State Department of Transportation.
- (k) Noises from activities granted a special exception by the zoning board of adjustment prior to July 23, 2002, establishing specific maximum sound levels measured in decibels.

Sec. 5.6-108. Waivers and permits.

- (a) *Waiver.* Applications for a waiver for relief from the maximum allowable sound level limits designated in this Article shall be made in writing. Such applications along with a fee established by resolution of the Board of County Commissioners shall be made to the County Administrator or the County Administrator's duly authorized representative. Any waiver granted by the County Administrator or the County Administrator's duly authorized representative hereunder must be in writing and shall contain all conditions upon which the waiver shall be effective. The County Administrator or the County Administrator's duly authorized representative may grant the requested waiver under the following conditions:
 - (1) The County Administrator or the County Administrator's duly authorized representative may prescribe any reasonable conditions or requirements deemed necessary to minimize adverse effects upon the community or the surrounding neighborhood, including but not limited to, the use of mufflers, screens or other sound attenuating devices.
 - (2) Waivers from maximum allowable sound level limits may only be granted for noises created by operations which were in existence on the effective date of this Article.
 - (3) Waivers may be issued for no longer than 365 days, renewable by further application to the County Administrator or the County Administrator's duly authorized representative.
- (b) *Permits.* Any person desiring relief from the provisions of this Article not provided for by waiver shall apply for a permit to cause or create noise which would otherwise be in violation of this Article. Such applications, with the fee established by resolution of the Board of County Commissioners, shall be made in writing to the County Administrator or the County Administrator's duly authorized representative at least

twenty-one (21) days prior to the date for which the relief is requested. The County Administrator or the County Administrator's duly authorized representative may grant a permit under the following conditions:

- (1) Additional time is necessary for the applicant to alter or modify the activity or noise source in order to comply with this Article, and
- (2) The activity, operation or noise source will be of a temporary duration and cannot be done in a manner that would comply with the provisions of this Article, and
- (3) No reasonable alternative is available to the applicant.

Applicants for permits issued pursuant to this section shall comply with all reasonable conditions and requirements deemed necessary by the County Administrator or the County Administrator's duly authorized representative including effective date, time of activity, location and equipment limitations, and sound attenuation devices. No permit shall be issued for a period in excess of fifteen (15) consecutive days. Any permit granted may be renewed upon application to the County Administrator or the County Administrator's duly authorized representative by showing that the reasons for which the permit was granted still exist. No permit granted pursuant to this section shall be renewed more than once.

- (c) *Appeals.* Any person aggrieved by the action taken by the County Administrator or the County Administrator's duly authorized representative to approve or deny an application for a waiver or a permit may appeal that decision by filing a written notice of appeal in the office of the County Administrator within thirty (30) days after the date of the approval or denial of the waiver or permit as provided in Division 2 of Article VI of Chapter 2 of the Code, and the appeal shall be heard by a hearing officer pursuant to that Division 2. An aggrieved party may appeal a final order of the hearing officer to the circuit court in Highlands County, Florida, within thirty (30) days after that final order is filed in the office of the County Administrator, but not thereafter. That appeal shall not be a hearing de novo but shall be limited to appellate review of the record of the hearing conducted by the hearing officer.

Sec. 5.6-109. Measurement techniques.

- (a) For purposes of Sec. 5.6-106 of this Article, the measurement of sound shall be made with a sound-level meter meeting the standards prescribed by the American National Standards Institute (ANSI), S1.4 American National Standard Specifications for sound level meters. The instruments shall be maintained in calibration and good working order. A calibration check shall be made of the system at the time of any sound measurement, both before and after the measurement is taken. Measurements shall be taken so as to provide a proper representation of the sound source. The microphone, during measurement, shall be positioned so as not to create any unnatural enhancement

or diminution of the measured sound. No individual other than the operator shall be within ten (10) feet of the sound level meter during the sample. A windscreen for the microphone shall be used at all times.

- (b) The sound level meter shall be of at least type 2 ANSI requirements. The sound level meter shall utilize the A-weighted network when measurements are taken. The microphone shall be oriented in accordance with the instrument manufacturer's instructions.
- (c) For outside sound, the measurement shall be made at the nearest adjacent real property line from the property on which the sound source is located. Outside sound measurements shall be made at least four (4) feet above the ground and at a point at least ten (10) feet away from any walls, barriers or other obstructions. Sound measurements inside multifamily dwelling units shall be made at least three (3) feet from any wall, ceiling or partition.
- (d) All sound measurements provided for in this Article shall be made by code enforcement officers who are qualified to operate the apparatus used to make the measurements as provided for in this Article.
- (e) The code enforcement officer conducting the sound measurements shall document all sound measurement results in a written record. That record shall include the following:
 - (1) Instrument used, name, make, type serial and model number;
 - (2) Date of last laboratory calibration;
 - (3) On site calibration before and after reading;
 - (4) Name and location of measuring area;
 - (5) Detailed sketch of measuring area;
 - (6) Time and date of measuring;
 - (7) Weather conditions; and
 - (8) Names of observers.

Sec. 5.6-110. Enforcement and penalties.

- (a) *Responsibility for enforcement.* Highlands County Code Enforcement Officers employed by the Highlands County Board of County Commissioners shall have the primary responsibility for the enforcement of this Article. The Highlands County Sheriff's Office shall also be responsible for enforcement of this Article. Enforcement of Sec. 5.6-105(d) of this Article pertaining to "Animals and Birds" shall also be the responsibility of Highlands County Animal Control Officers. Code enforcement officers shall have the powers and authority to enforce this Article as set forth in Division 5 of Article VI of Chapter 2 of this Code.
- (b) *Enforcement procedures.* A violation of Sec. 5.6-104, Sec. 5.6-105, or Sec. 5.6-106 of this Article shall be enforced as provided in Division 5 of Article VI of Chapter 2 of this Code. Each violation of Sec. 5.6-104, Sec. 5.6-105, and Sec. 5.6-106 of this Article shall be a separate civil infraction. Each day the violation continues shall be considered a

separate violation and civil infraction. For the purpose of determining if a violation of one of the standards prescribed in Sec.5.6-106 of this Article has occurred, the responding code enforcement officer shall apply the measurement techniques set forth in Sec.5.6-109 of this Article. However, a violation of this Article may occur without taking measurements if the violation is one listed in Sec. 5.6-105 of this Article. The following procedures shall be followed by the code enforcement officer when enforcing this Article:

- (1) The code enforcement officer shall investigate and determine if any noise is in violation of the specific noise prohibitions provided in Sec. 5.6-105 of this Article or any sound level is in excess of the sound control standards prescribed in Sec. 5.6-106 of this Article.
 - (2) Sound measurements, when required, shall be made by the code enforcement officer in accordance with the measurement techniques prescribed in Sec. 5.6-109 of this Article.
 - (3) When, based upon personal investigation, the code enforcement officer has reasonable cause to believe that a person has committed a civil infraction in violation of this Article, the code enforcement officer is authorized to issue notices of violation, citations, and notices to appear pursuant to Division 5 of Article VI of Chapter 2 of the Code.
- (c) *Penalties.* Whoever violates any of the provisions of Sec. 5.6-104, Sec. 5.6-105, or Sec. 5.6-106 of this Article shall be guilty of a civil infraction punishable as a Class I Violation as provided in Sections 2-246 and 2-247 of this Code.

Sec. 5.6-111. Other remedies.

The Board of County Commissioners or any substantially affected person may bring suit in the circuit court of the county to restrain, enjoin or otherwise prevent the violation of this Article.

Sec. 5.6-112. No liability for reasonable, good faith trespass by enforcement officer.

The sheriff, any code enforcement officer, and the county shall be immune from prosecution, civil or criminal, for reasonable, good faith trespass upon private property while in the discharge of duties under this article.

Sec. 5.6-113. Administration.

The Board of County Commissioners may adopt such resolutions as are necessary to effectively administer this Article.

SECTION 2. Severability. The sections, subsections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, subsection or section of this Ordinance shall be declared invalid, unconstitutional or unenforceable by the valid judgment or decree

of a court of competent jurisdiction, such invalidity, unconstitutionality or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs, subsections, and sections of this Ordinance.

SECTION 3. Conflict. Any ordinance or part thereof in conflict with this Ordinance or any part hereof is hereby repealed to the extent of the conflict.

SECTION 4. Effective Date. This Ordinance shall take effect immediately upon filing with the Department of State.

DONE AND ADOPTED this 23rd day of July, 2002.

(SEAL)



BOARD OF COUNTY COMMISSIONERS
HIGHLANDS COUNTY, FLORIDA

By: 
Robert F. Bullard, Chairman

ATTEST:


L.E. "Luke" Brooker, Clerk