

ORDINANCE NO. ~~13-05~~ 16-08

**AN ORDINANCE OF MANATEE COUNTY, FLORIDA,
REGARDING THE EMISSION OF HARMFUL NOISE
WITHIN THE UNINCORPORATED AREA OF MANATEE
COUNTY; AMENDING ARTICLE II OF CHAPTER 2-21 OF
THE MANATEE COUNTY CODE; DEFINING CERTAIN
TERMS; PROVIDING FOR CERTAIN EXCEPTIONS;
PROHIBITING THE MAKING, CAUSING OR ALLOWING
OF HARMFUL NOISE WHICH CAUSES NOISE
DISTURBANCES OR EXCEEDS CERTAIN SOUND
LEVELS; PROVIDING FOR THE MEASUREMENT OF
LEVELS OF HARMFUL NOISE; PROVIDING FOR
PENALTIES; PROVIDING FOR CODIFICATION;
PROVIDING FOR SEVERABILITY; AND PROVIDING
FOR AN EFFECTIVE DATE.**

WHEREAS, Manatee County has codified its various noise regulations in Chapter 2-21 of Article II of the Manatee County Code; and

WHEREAS, the making and creation of excessive and unnecessarily loud noises within Manatee County, Florida, is a condition which has existed for some time and which exists despite enforcement efforts; and

WHEREAS, excessive amplified sound from motor vehicle radios or other motor vehicle sound making devices is a public safety hazard which can inhibit a driver's ability to hear, as well as create a hazard and annoyance to other citizens; and

WHEREAS, these noises and the amount, intensity, duration and vibration of said noises are increasing within the County as population, industry and tourism grows; and

WHEREAS, the residents of Manatee County have a right to an environment free from excessive noise including the vibration and disturbances from low frequency noise; and

WHEREAS, the making and creation of these noises may be prolonged, unusual and unnatural in their time, place and effect upon individuals, and are a detriment to the public health, comfort, convenience, safety, welfare and prosperity of the residents of Manatee County; and

WHEREAS, as a matter of legislative determination and public policy, the Board of County Commissioners finds it in the public interest for the provisions, prohibitions and penalties hereinafter contained and enacted; and

WHEREAS, Chapter 162, Florida Statutes, provides a process for counties and municipalities to enforce ordinance violations as both criminal and non-criminal civil infractions; and

WHEREAS, the Manatee County Board of County Commissioner's wishes to adopt the non-criminal civil infraction penalty and separate fine schedule for excessive amplified sound from motor vehicles because these violators are excluded from first receiving a notice due to the itinerant or transient nature of this violation; and

WHEREAS, the Manatee County Board of County Commissioner's wishes to adopt the non-criminal civil infraction penalty for excessive amplified sound from motor vehicles because these violators are excluded from first receiving a warning due to the itinerant or transient nature of this violation; and

WHEREAS, the Manatee County Board of County Commissioner's wishes to adopt both the criminal and non-criminal civil infraction penalties for all other violations of this article; and

WHEREAS, it is further declared that these provisions, prohibitions and penalties are in pursuance of and for the purpose of securing and promoting the public health, comfort, safety, and welfare of the inhabitants of Manatee County; and

WHEREAS, the Board of County Commissioners of Manatee County has previously addressed this issue by adopting Ordinance 08-12 and 13-05; and

WHEREAS, the Manatee County Attorney's Office has advised that recent court orders and developments in the law, as well as recent local court rulings, require revisions to the current code in order to address procedural and constitutional issues; and

WHEREAS, this Ordinance is enacted pursuant to the home rule power of Manatee County, specifically Section 125.01(1), Florida Statutes, and pursuant to Article II, Section 7, Florida Constitution, which provides that adequate provision shall be made by law for the abatement of excessive and unnecessary sound; and

WHEREAS, it is the intent of this Ordinance that it shall work harmoniously with existing ordinances and state statutes regulating noise emissions and shall be an additional regulation to those pre-existing ordinances and statutes; and

WHEREAS, it is not the intent of this Ordinance to interfere with the individual rights to freedom of speech or religion; and

WHEREAS, the Board of County Commissioners of Manatee County finds that the provisions of this ordinance are in the best interests of the County's residents, businesses and visitors.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA:

Section 1. Article II of Chapter 2-21 of the Manatee County Code is hereby amended as follows:

ARTICLE II. NOISE

Sec. 2-21-31. Terminology; Definitions. All words or phrases ~~terminology~~ used in this article which are not defined below and are of a technical nature shall be defined according to applicable publications of the American National Standards Institute (ANSI) or the American Society for Testing and Materials (ASTM) or their successor bodies, where same have been defined.

Adjacent: Shall mean to have property lines, or portions thereof, in common or facing each other across a street, or right-of-way.

A-weighted sound level (dBA): The sound pressure level in decibels as measured using A-weighting network on a sound level meter that meets the standards set forth in ANSI Standard S.1.4-1983 (or more recent version). The level so read is designated "dBA."

Agricultural area: Any area within unincorporated Manatee County that is zoned agricultural pursuant to the County's Land Development Code. For any municipality in which this article applies, any area that is zoned agricultural pursuant to that municipality's land development code.

Agricultural use: Any area within unincorporated Manatee County that is designated for agricultural use pursuant to the County's Land Development Code. For any municipality in which this article applies, any area that is designated for agricultural use pursuant to that municipality's land development code.

Ambient Noise Sound: The surrounding or steady background noise sound in a particular location as distinct from the specific noise being measured.

C-weighted sound level (dBC): The sound pressure level in decibels measured using the C-weighting network on a sound level meter that meets the standards set forth in ANSI Standard S1.4-1983 (or more recent version). The level so read is designated "dBC."

~~*Commercial area use:* Land used primarily for the sale of merchandise or goods, or for the performances of a service, or for office or clerical work.~~ *Any area within unincorporated Manatee County that is designated for commercial use pursuant to the County's Land Development Code. For any municipality in which this article applies, any area that is designated for commercial use pursuant to that municipality's land development code.*

Construction activity: Any site preparation, assembly, erection, substantial repair, alteration, or improvement of realty, whether publicly or privately owned, and whether above ground or below ground.

Continuous sound: A sound which remains essentially constant in level during a period of observation.

Decibel (dB): The practical unit of measurement for sound pressure level; the number of decibels of a measured sound 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: Any occurrence or set of circumstances involving actual or imminent physical trauma to human beings or living creatures or property damage which necessitates immediate action-attention.

Emergency work: 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.

Impulsive sound: Any sound or vibration that has an abrupt increase immediately followed by an abrupt decay.

Industrial area use: ~~Land use which is primarily for manufacturing, processing or an airport.~~ Any area within unincorporated Manatee County that is designated for industrial use pursuant to the County's Land Development Code. For any municipality in which this article applies, any area that is designated for industrial use pursuant to that municipality's land development code.

Leq: the average sound level.

Multifamily dwellings: ~~A building designed or used exclusively for residential occupancy by two (2) or more families.~~

Noise: Any sound which annoys or disturbs ~~humans~~ a reasonable person of ordinary sensibilities or causes or tends to cause an adverse physical or psychological effect on humans. "Noise" includes, but is not limited to, low frequency sounds ~~caused by amplified bass music~~ that can induce vibration in ~~building~~ structures or human beings.

Noise disturbance: Any sound or vibration which:

- (a) ~~is or may be harmful or injurious to the health or welfare of a~~ May disturb, annoy, or be harmful or injurious to the health or welfare of a reasonable person with normal of ordinary sensibilities sensitivities; or
- (b) ~~the presence of noise in an excessive or disturbing amount or of such duration, wave frequency or intensity as to be injurious to human life, health; or~~
- (c) ~~is plainly audible from a distance of 25 feet or more.~~
- (b) exceeds the maximum allowable limits set forth in this article.

Park land: ~~Land that is used primarily for public recreational activities.~~

Person: ~~Any individual, A natural person, public or private~~ any corporation, firm, association, joint venture, partnership, or any other entity whatsoever or any combination of such, jointly and severally.

Public right-of-way: Any street, avenue, boulevard, highway, sidewalk or alley or similar place normally accessible to the public which is owned or controlled by a governmental entity.

Public space: Any real property or structure thereon normally accessible to the public which is owned or controlled by a governmental entity.

Real property line:

- (a) The imaginary line along the ground surface, including its vertical extension that separates one parcel of real property from another; or

- (b) The vertical and horizontal boundaries of a dwelling unit that is one unit in a multi-dwelling-unit building.

Receiving land: ~~Land area neighboring or in the vicinity of a sound source and on or at which the sound emanating from the sound source is audible to the normal human ear. The property which receives the transmission of sound.~~

Residential area: ~~Land use that is primarily for living and sleeping or park land or hospitals or schools or nursing homes or the individual plots within a mobile home park assigned by the owner of the park or any land use that is not commercial or industrial. Any area within unincorporated Manatee County that is designated for residential use pursuant to the County's Land Development Code. For any municipality in which this article applies, any area that is designated for residential use pursuant to that municipality's land development code.~~

School: ~~This term shall have all of the same meanings as set forth in Chapter Two of the County's Land Development Code.~~

Short duration and non-repetitive: Any sound with a duration of less than thirty seconds.

Sound: ~~An temporal and spatial~~ oscillation in pressure, 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 analyzer: A device for measuring the octave band level of a sound as a function of frequency.

Sound level: ~~The weighted sound pressure level obtained by the use of a metering characteristic and weighting A, B or C as specified in the American National Standards Institute specifications for sound level meters ANSI S1.4-1983, or in successor publications. If the weighting employed is not indicated, the A-weighting shall apply. The conversion of sound pressure to a logarithmic measure called the decibel.~~

The criteria required to properly define the sound level limits include the following:

1. The actual sound level limit with the frequency weighting to be used, such as A-weighting or C-weighting (i.e. 55 dBA, 60 dBC, etc.)
2. The acoustical metric to be used, such as real time measurement using fast/slow time constant, an average sound level (Leq), a maximum sound level (Lmax), etc. or a combination of multiple metrics.
3. The time duration of the measurement (i.e. instantaneous, time average, percentage of time sound level is not to be exceeded, etc.)

Sound level or noise meter: An instrument which includes a microphone, amplifier, RMS detector, integrator or time average, output meter, and weighting networks used to measure sound pressure levels. The output meter reads sound pressure level when properly calibrated, and

the instrument is of type 2 or better, as specified in the American National Standards Institute publication S1.4-1983 or its successor publication.

Sound pressure: The instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by the presence of energy location.

Sound pressure level: Twenty (20) times the logarithm to the base ten (10) of the ratio of the RMS sound pressure to the reference pressure of twenty (20) micronewtons per square meter ($20 \times 10^6 \text{N/m}^2$). The sound pressure level is expressed in decibels.

~~*Tone:* Any sound which can be distinctly heard as a single pitch or a set of single pitches. For the purposes of measurement, a tone shall exist if the time-average sound pressure level in the one-third octave band of interest exceeds the time-average sound pressure levels in each of the two adjacent one-third octave bands by 15 decibels for the one-third octave bands with center frequencies of 25 Hz to 125 Hz, by 8 dB in the one-third octave bands with center frequencies of 160 Hz to 400 Hz, and by 5 dB for the one-third octave bands with center frequencies of 500 Hz to 10000 Hz.~~

Vibration: A temporal and spatial oscillation of displacement, velocity and acceleration in a solid material.

Sec. 2-21-32. Area of applicability. This article shall be applicable to and embrace the unincorporated areas of the county.

Sec. 2-21-33. ~~Exeptions~~ Exemptions. The following activities or sources are exempt from the requirements of this article:

- (1) The emission of sound or noise for the purpose of alerting persons to the existence of an emergency or in the performance of emergency work.
- ~~(2) Between the hours of 7:00 a.m. and 11:00 p.m., ceremonial or traditional activities or events, including the sounding of church bells and the normal sounds of organized sporting and cultural events.~~
- (32) Operation of equipment or conduct of activities normal to residential or agricultural communities as set forth herein:

<i>Description</i>	<i>Hours of Operations</i>
(a) lawn care, soil cultivation, domestic power tools, lawn mowers, maintenance of trees, hedges, gardens, saws and tractors, street sweepers, mosquito fogging, tree trimming and limb chipping and other normal community operations	7:00 a.m. to 10:00 p.m.
(b) operation of equipment for solid waste	6:00 a.m. to 6:00 p.m.

and recycling collection in or adjacent to residential uses

- (c) operation of equipment for solid waste collection in nonresidential locations 4:00 a.m. to 10:00 p.m.

- (43) Operation of manufacturing in areas zoned for such activities and which do not create a noise disturbance on any properties not designated for such activities.
- (54) The usual sounds or noises of construction and operation of construction equipment between the hours of 7:00 a.m. to 8:00 p.m.
- (65) ~~The Usual engine noises of traffic and m~~Motor vehicles operating on the a public right-of-way in compliance with Chapter 316 and Section 403.415, Florida Statutes, and as amended. This exception shall not apply to amplified sound produced by a radio, tape player, CD player, or other mechanical sound making device or instrument from within the motor vehicle so that the sound is plainly audible from 50 feet from the source vehicle. In determining whether a sound is plainly audible:
- (a) the primary means of detection shall be by means of the officer's ordinary auditory senses, so long as the officer's hearing is not enhanced by any mechanical device, such as a microphone or hearing aid; and,
 - (b) the officer must have a direct line of sight and hearing to the motor vehicle producing the sound so that he/she can readily identify the offending motor vehicle and the distance involved; and,
 - (c) the officer need not determine the particular words or phrases being produced or the name of any song or artist producing the sound.
- (76) Any residential unit with air-conditioning or pool pump equipment when in reasonable mechanical condition operating with the standard noise sound and vibration control systems typically provided by the manufacturer in a sound level not to exceed 65 60 dBA or 65 dBC. Air conditioning units are presumed to be in reasonable mechanical condition if the unit meets the noise sound specifications contained in the Air Conditioning, Heating, and Refrigeration Institute's ("AHRI") Applied Directory of Certified Product Performance Variable Air Volume terminals. See www.aridirectory.org
- (7) Railroad operations.
- (8) Any aircraft operating in conformity with, or pursuant to, federal law, federal air regulations and air traffic control instructions used pursuant to and within the duly adopted federal air regulations.
- (9) The usual sounds or noises associated with marina operations and port operations.

- (10) Between the hours of 7:00 a.m. and 11:00 p.m., the emission of sound or noise from lawful and proper activities on school grounds and places primarily used for athletic contests and sporting events.
- (11) Fireworks displays, special events, and events for which all required permits have been obtained in compliance with any conditions imposed by a permit that has been issued by the relevant jurisdiction.
- (12) Impulsive sound.
- (13) Sports shooting ranges in compliance with Sections 790.33 and 823.16, Florida Statutes, and as amended.
- (14) Sounds emanating from bona fide farm operations on land classified as agricultural land which are exempt from local government regulation pursuant to Section 823.14, Florida Statutes, and as amended.

Sec. 2-21-34. Prohibited acts. The occurrence of the conditions, acts or omissions as described in subsections (1) or (2) of this section shall constitute a violation of this article. Requirements in any one of said subsections stand alone. Measurements described in subsection (2) shall constitute *prima facie* evidence of a violation of this article. However, such measurements are not necessary for enforcement of this article, *i.e.*, neither sound measurements and maximum permissible sound levels as provided in subsection (2) nor any other type of sound measurement are necessary to prove a violation of subsection (1) of this section so long as evidence exists sufficient to establish that the sound constitutes a noise disturbance pursuant to the applicable standard of proof.

- (1) *Noise disturbance.* Notwithstanding any other provision of this article, and in addition thereto, it shall be unlawful for any person to make or continue, or cause or permit to be made or continued, any noise disturbance, as defined in Section 2-21-31.

(a) *Standards.* The standards to be considered in determining whether a violation of subsection (1) of this section exists ~~may include, but shall not be limited to, the~~ must include consideration of one or more of the following factors:

1. The sound level ~~volume~~ of the noise.
2. The intensity of the noise.
3. Whether the nature of the noise is usual or unusual.
4. The volume and intensity of the ambient ~~noise~~ sound, if any.
5. The proximity of the noise to residential sleeping facilities.
6. The nature and zoning of the area from which the noise emanates.
7. The nature and zoning of the receiving land.
8. The time of the day or night the noise occurs.
9. The duration of the noise.
10. ~~Whether the noise is produced by a commercial or noncommercial activity.~~

(b) ~~*Enforcement.* Enforcement does not depend on any minimum number of standards being met.~~

(e**b**) *Persons affected.* Persons affected ~~may~~ include residents, passersby, or code enforcement officials, law enforcement officials, or others who may be reasonably disturbed by excessive noise in the general conduct of their affairs.

(2) *Maximum permissible sound levels.*

(a) Sound level limits pursuant to this section shall be measured with a sound level meter as a Leq (average sound level) for a minimum thirty (30) second period of time.

(b) Sound Level Limits. No person shall generate or cause to be generated from any source, sound which, when measured in accordance with the requirements of subsection (d) of this section, exceeds:

1. Sixty (60) dBA or Sixty-five (65) dBC during the hours between 7:00 a.m. and ~~10:00 p.m.~~ 11:00 p.m., Sunday through Thursday. Friday, Saturday and the day prior to a federally recognized holiday, the hours shall be from 7 a.m. to 12:00 midnight.
2. Seventy-two (72) dBA or Seventy-seven (77) dBC if the receiving land is a residential use adjacent to a commercial use during the hours between 7:00 a.m. and 11:00 p.m., Sunday through Thursday. Friday, Saturday and the day prior to a federally recognized holiday, the hours shall be from 7 a.m. to 12:00 midnight.
3. Fifty-five (55) dBA or Sixty (60) dBC during the hours between ~~10:00 p.m.~~ 11:00 p.m. and 7:00 a.m., Sunday through Thursday. Friday, Saturday and the day prior to a federally recognized holiday, the hours shall be from 12:00 midnight to 7 a.m.

(c) *Correction for character of sound.* For any source of sound which emits a continuous ~~tone~~ sound, the maximum sound level limits set forth in subsection (2)(b) shall be reduced by five (5) dBA. For any source of sound which is of short duration and is nonrepetitive, the maximum sound level limits set forth in subsection (2)(b) shall be increased by five (5) dBA from 7:00 a.m. to ~~10:00 p.m.~~ 11:00 p.m.

(d) *Correction for ambient ~~noise~~ sound.* Corrections for ambient ~~noise~~ sound should be made in accordance with applicable ASTM standards.

(e) *Methods of measurements.*

1. The measurement of sound shall be made with a decibel or a sound level meter operating on the "A" or "C"-weighted scale of any standard design and quality meeting the standards prescribed by the American National Standards Association. The instruments shall be maintained in calibration and good working order. Measurements recorded shall be taken so as to provide a proper representation of the sound source. The microphone used during measurement shall be positioned so as to not to create any unnatural enhancement or diminution of the measured sound. A wind-

screen for the microphone should be used when required. Traffic, aircraft, and other background ambient sounds shall not be considered in taking measurements except where such ambient sound interferes with the primary noise being measured.

2. If the receiving property is an agricultural area the measurement shall be made within thirty (30) feet of a receiving occupied structure or facility approximately five (5) feet above ground.
3. For all other properties, the measurement shall be made within the boundary of the receiving property as appropriate approximately five (5) feet above ground.
4. Acoustical measurements should be made in general conformance with ASTM Standard E1503-06 (or most recent) *Standard Test Method for Conducting Outdoor Sound Measurements Using a Digital Statistical Sound Analysis System* or ANSI Standard S1.13, *Measurement of Sound Pressure Levels in Air*, with regard to addressing issues such as measurement equipment, equipment interferences, calibration of the equipment, and measurement procedures.

Sec. 2-21-35. Enforcement and penalties.

- (1) Enforcement. The provisions of this article shall be enforced throughout the unincorporated county and, pursuant to Chapter 162, Florida Statutes by the Manatee County Sheriff's Office and County Code Enforcement. The Sheriff and his or her deputies are hereby designated as code enforcement officers for purposes of enforcing the provisions of this article within their respective jurisdictions and are fully authorized to enforce the provisions of this article. Pursuant to Section 162.22, Florida Statutes enforcement methods may include, but are not limited to, the issuance of a citation, a summons, or a notice to appear in county court or arrest by a law enforcement officer for violation of any of the provisions of this article as provided for in chapter 901 of Florida Statutes. The County shall promulgate a standard form of notices and citations for usage by code enforcement officers. The Manatee County Sheriff's Office may develop standard form notices and citations consistent with this article for use by law enforcement.
- (2) Except as set forth in Subsection (4) below, when a code enforcement officer or law enforcement officer has reasonable cause to believe that a violation of this article has occurred, based upon personal investigation, he or she shall provide notice to the person that the person has committed a violation of this article and shall establish a reasonable time period within which the person must correct the violation. Absent special circumstances, a reasonable time period shall be fifteen (15) minutes. If, upon personal investigation, a code enforcement officer or law enforcement officer finds that the person has not corrected the violation within a reasonable time period, they may engage in any of the enforcement actions set out in section (1).

- (3) A notice issued under any section of this article may be contested by requesting a hearing before the code enforcement special magistrate. However, the pendency of a hearing on the contested notice shall not entitle the person to continue any activity which formed the basis of the alleged violation, unless and until the special magistrate rescinds such notice.
- (4) A code enforcement officer or law enforcement officer is not required to provide the person with a reasonable time period to correct the violation prior to issuing a citation summons, notice to appear, or prior to making an arrest, and may immediately take such action if a repeat violation within 365 days is found or if the code enforcement officer or law enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, the violator is engaged in violations of an itinerant or transient nature, or if the violation is irreparable or irreversible.

“Repeat violation” is a violation of this article by a person who has been previously found by the code enforcement special magistrate or any other quasi-judicial or judicial process, to have violated or who has admitted violating this article, notwithstanding the violations occur at different locations.

Additionally, payment of a civil citation, failure to pay the civil penalty or failure to contest the citation within the time frame specified on the citation shall be deemed an admission of a violation of this article for the purposes of a repeat violation.

Due to the mobile nature of motor vehicles, violations involving amplified sound produced by a radio, tape player, CD player, or other mechanical soundmaking device or instrument from within motor vehicles are deemed *per se* itinerant or transient in nature.

- (5) A citation issued by a code enforcement officer or a law enforcement officer shall include the following information, as provided in Section 162.21, Florida Statutes, and as amended:
- a. The date and time of issuance.
 - b. The name and address of the person to whom the citation is issued.
 - c. The date and time the civil infraction was committed.
 - d. The facts constituting reasonable cause.
 - e. The number or section of the code or ordinance violated.
 - f. The name and authority of the code enforcement officer.
 - g. The procedure for the person to follow in order to pay the civil penalty or to contest the citation.
 - h. The applicable civil penalty if the person elects to contest the citation.
 - i. The applicable civil penalty if the person elects not to contest the citation.
 - j. A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, the person shall be deemed to have waived his or her right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.

- (6) ~~Any person or entity violating any of the provisions of this article shall be prosecuted in the same manner as misdemeanors are prosecuted. Such violations shall be prosecuted in the name of the State of Florida in a court having jurisdiction of misdemeanors by the prosecuting attorney thereof and, upon conviction,~~

A violation of section 2-21-33(5)(a)-(c) of this article shall be a written warning for a first offense, a \$100 civil penalty for a second offense committed within 365 days of the written warning, and a \$250 civil penalty for any third or subsequent offense committed within 365 days of the second violation.

For a violation of any other section of this article:

- a. First violation: A code enforcement officer may issue a citation, in accordance with Subsections (2)-(4), with a two hundred fifty dollar (\$250) one hundred dollar (\$100) fine or a notice to appear in county court subject to the penalties of a second degree misdemeanor, as provided in Section 775.082, Florida Statutes. A law enforcement officer may issue a citation, in accordance with Subsections (2)-(4), with a two hundred fifty dollar (\$250) one hundred dollar (\$100) fine, a summons, or a notice to appear in county court or arrest by a law enforcement officer subject to the penalties of a second degree misdemeanor, as provided in Section 775.082, Florida Statutes.
 - b. Second violation: Within 365 days of the first violation, a code enforcement officer may issue a citation with a two hundred fifty dollar (\$250) fine or a notice to appear in county court subject to the penalties of a second degree misdemeanor, as provided in Section 775.082, Florida Statutes. A law enforcement officer may issue a citation with a two hundred fifty dollar (\$250) fine, a summons, or a notice to appear in county court or arrest by a law enforcement officer subject to the penalties of a second degree misdemeanor, as provided in Section 775.082, Florida Statutes.
 - c. Third or subsequent violation: Within 365 days of the first second violation, a code enforcement officer may issue a five hundred dollar (\$500) fine or a notice to appear in county court subject to the penalties of a second degree misdemeanor, as provided in Section 775.082, Florida Statutes. A law enforcement officer may issue a citation with a five hundred dollar (\$500) fine or effectuate an arrest or issue a citation a summons, or a notice to appear in county court subject to the penalties of a second degree misdemeanor, as provided in Section 775.082, Florida Statutes.
- (7) A citation issued under any section of this article shall be contested in county court.
- (8) If the violator elects to contest the citation, he or she shall request a hearing through the procedure described on the citation and within the time frame specified on the citation.
- (9) If the violator neither pays the civil penalty nor contests the citation within the time frame specified on the citation, he or she shall be deemed to have waived the right to contest the citation and it shall be deemed an admission to the violation. A judgment may be entered

against that person for the maximum civil penalty of \$500.00 plus applicable fees and costs.

- (10) In accordance with Chapter 162, Florida Statutes, and as amended, any person who willfully refuses to sign and accept a citation issued by a code enforcement officer shall be guilty of a misdemeanor of the second degree, punishable as provided in Sections 775.082 or 775.083, Florida Statutes.

~~Sec. 2-21-36. Civil remedies and citations.~~ In addition to the criminal penalties provided in Section 2-21-35, the Board of County Commissioners is authorized to institute any appropriate action or proceeding, including suit for injunctive relief, as may be necessary, in order to prevent or abate violations of this article. Citations may also be issued to enforce this article as provided in Section 2-2-25 of this code except that the civil penalties for a violation of Section 2-21-35 shall be as follows:

- a. ~~First violation: Warning Notice, in effect for 365 days, no fine. Issue a civil citation with a Two hundred fifty dollar (\$250) fine.~~
- b. ~~Second violation: Within 365 days of the Warning Notice, issue a civil citation with a Two hundred fifty dollar (\$250) fine.~~
- e. ~~Third violation: Within 365 days of the first civil citation, issue a civil citation with a Five hundred dollar (\$500) fine.~~
- d. ~~Fourth violation: Within 365 days of the second civil citation, issue a civil citation with a mandatory court appearance and a fine to be determine up to Five hundred dollars (\$500).~~

~~Sec. 2-21-37. Special Permits.~~ Special permits for prospective activities that will exceed the maximum permissible noise levels permitted by this section may completed application to the Manatee County Administrator or his designee. Such special permit shall not be unreasonably withheld so long as the prospective activity will not adversely affect the health, safety, and welfare of nearby residents. The administrative determination shall be made within ten (10) business days of application, or the subject activity shall be deemed permitted.

~~Sec. 2-21-38. Appeals.~~ Any person denied a Special Permit may file an administrative appeal to a Manatee County Hearing Officer in accordance with Sec. 2-2-107 *et seq.* of this code.

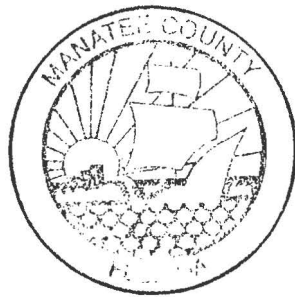
Section 2. If any section, sentence, clause, phrase or provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

Section 3. For purposes of codification of any section of the Manatee County Code amended, words **underlined** represent additions to original text, and words **~~stricken~~** are deletions from original text.

Section 4. Pursuant to Section 125.62(1), Florida Statutes the Codifier shall codify the substantive amendments to the Manatee County Code contained in Section 1 of this Ordinance as provided for therein, and shall not codify any other sections not designated for codification.

Section 5. This Ordinance shall take effect immediately upon filing with the Department of State.

DULY ADOPTED, with a quorum present and voting, this 13 day of September, 2016.



**BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA**

By: _____

Chairperson

Attest: ANGELINA COLONNESO
CLERK OF THE CIRCUIT COURT AND COMPTROLLER

By: _____

Deputy Clerk