

ORDINANCE NO. 20-21- 01

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF HIGHLANDS COUNTY, FLORIDA, PERTAINING TO CODE ENFORCEMENT; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR AMENDMENTS TO SECTION 5.6-110, OF THE CODE OF ORDINANCES RELATING TO A SUPPLEMENTAL PROCESS FOR ENFORCEMENT OF THE NOISE ORDINANCE; PROVIDING FOR THE IMPLEMENTATION OF ADMINISTRATIVE ACTIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR CODIFICATION, SCRIVENER'S ERRORS AND THE ADJUSTMENT OF PRONOUNS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Board of County Commissioners ("BCC") deems it necessary for the purpose of promotion, protection and improvement of the public health, safety, comfort, good order, appearance, convenience, morals and general welfare of the County to amend those Regulations as set forth in this Ordinance;

**WHEREAS**, Florida Statutes Chapter 162 authorizes issuance of citations if a code violator is engaged in violations of an itinerant or transient nature or that are irreparable or irreversible in nature;

**WHEREAS**, section 125.69 Florida Statutes authorizes violations of a code to be prosecuted as criminal misdemeanors;

**WHEREAS**, the BCC finds that noise violations are transient, itinerant, irreparable and irreversible in nature;

**NOW THEREFORE, BE IT ORDAINED** by the Board, after due notice and public hearing, that:

**SECTION 1. LEGISLATIVE FINDINGS AND INTENT.** The recitals set forth above are hereby adopted as legislative findings and intent of the Board of County Commissions of Highlands County.

**SECTION 2. AMENDMENT AND ADOPTION.** Section 5.6-110 of the Code of Ordinances, Highlands County, Florida is amended to read as follows:

**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 subsection 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 article XII of chapter 2 of this Code.

- (b) *Enforcement procedures.* A violation of section 5.6-104, section 5.6-105, or section 5.6-106 of this article shall be enforced as provided in article XII of chapter 2 of this Code. Each violation of section 5.6-104, section 5.6-105, and section 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 section 5.6-106 of this article has occurred, the responding code enforcement officer shall apply the measurement techniques set forth in section 5.6-109 of this article. However, a violation of this article may occur without taking measurements if the violation is one listed in section 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 section 5.6-105 of this article or any sound level is in excess of the sound control standards prescribed in section 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 section 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 article XII of chapter 2 of the Code.
- (c) *Penalties.* ~~Whoever violates any of the provisions of section 5.6-104, section 5.6-105, or section 5.6-106 of this article shall be guilty of a civil infraction punishable as a class I violation as provided in sections 2-372 and 2-373 of this Code. Notwithstanding anything in this Code to the contrary, when a code enforcement officer determines that there is a violation of the noise level limits contained in the article, the code enforcement officer may issue an official warning to the person responsible for the noise violation; and then within the 24 hour time period commencing from the issuance of said warning, may issue a citation with an escalating fine as follows: (1) \$200.00 in the first instance of failure to abate the noise violation; (2) \$300.00 for second instance to abate the noise violation; (3) \$400.00 for third instance of failure to abate the noise violation; and (4) \$500.00 for fourth instance to abate the noise violation (all within the 24 hour period commencing from the initial warning); at which time an authorized law enforcement officer may arrest the person responsible for the noise violation and the matter will be referred to the state attorney's office for prosecution as a criminal misdemeanor per Florida Statute 125.69 rather than a civil citation. Any person who violates this Article III (Noise Control Ordinance) may be punished by imprisonment for a term not to exceed sixty (60) days or a fine not to exceed FIVE HUNDRED AND NO/100 DOLLARS (\$500.00) or both, for each such violation in the event that there are four or more instances of a noise violation which remain unabated within a 24 hour period after the initial notice, as more specifically set forth above.~~

**SECTION 3. IMPLEMENTING ADMINISTRATIVE ACTIONS.** The County Manager is hereby authorized and directed to take such actions as are deemed necessary and appropriate in order to implement the provisions of this Ordinance. The County Manager may, as deemed appropriate, necessary and convenient, delegate the powers of implementation as herein set forth to such County employees as deemed effectual and prudent.

**SECTION 4. SAVINGS CLAUSE.** All prior actions of the Board of County Commissioners of Highlands County pertaining to Section 5.6-110 of the Code of Ordinances, Highlands County, Florida, as well as any and all matters relating thereto, are hereby ratified and affirmed consistent with the provisions of this Ordinance.

**SECTION 5. CODIFICATION; SCRIVENER'S ERRORS.**

A. Sections in this Ordinance shall be codified in the Board of County Commissioners of Highlands County Code of Ordinances and the sections, divisions and provisions of this Ordinance may be renumbered or re-lettered as deemed appropriate by the codifier of the Board of County Commissions of Highlands County Code of Ordinances.

B. Typographical errors and other matters of a similar nature that do not affect the intent of this Ordinance, as determined by the County Clerk and County Attorney, may be corrected with the endorsement of the County Manager, or designee, without the need for a public hearing.

**SECTION 6. CONFLICTS.** All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

**SECTION 7. SEVERABILITY.** If any Section or portion of a Section of this Ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Ordinance.

**SECTION 8. EFFECTIVE DATE.** This Ordinance shall become effective immediately upon its passage and adoption.

**DONE AND ADOPTED** this 6<sup>th</sup> day of October 2020.

BOARD OF COUNTY COMMISSIONERS OF  
HIGHLANDS COUNTY, FLORIDA

By: Don Elwell  
Don Elwell, Vice-Chairman

(SEAL)

ATTEST: J. Kaszubowski  
By: Jerome Kaszubowski, Clerk





FLORIDA DEPARTMENT *of* STATE

**RON DESANTIS**  
Governor

**LAUREL M. LEE**  
Secretary of State

October 12, 2020

Honorable Robert W. Germaine  
Clerk of the Circuit Court  
Highlands County  
590 South Commerce Avenue  
Sebring, Florida 33870-3867

Attention: Ms. Pamela Gamez

Dear Mr. Germaine:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Highlands County Ordinance No. 20-21-01, which was filed in this office on October 12, 2020.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb