

ORDINANCE

17-10

ORDINANCE NUMBER 17-10

AN ORDINANCE AMENDING HILLSBOROUGH COUNTY ORDINANCE 12-12 (HILLSBOROUGH COUNTY CODE OF LAWS AND ORDINANCES, PART A, CHAPTER 36, ARTICLE VI, DIVISION 2, SECTIONS 36-429 THROUGH 36-438) PERTAINING TO NOISE CONTROL; PROVIDING FOR THE RENUMBERING OF SECTIONS 36-436 THROUGH 36-438; PROVIDING FOR A NEW SECTION 36-436 TITLED NUISANCE ANIMALS; PROVIDING FOR REGULATION OF NUISANCE ANIMALS AND ENFORCEMENT OF VIOLATIONS; PROVIDING FOR INCLUSION IN THE HILLSBOROUGH COUNTY CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Hillsborough County Board of County Commissioners (BOARD) enacted Hillsborough County Ordinance 12-12 (Hillsborough County Code of Laws and Ordinances, Part A, Chapter 36, Article VI, Division 2, Sections 36-429 through 36-438) to protect, promote, and preserve the health, safety, welfare, peace and quiet of the citizens of Hillsborough County through the reduction, control, and prevention of noise disturbance; and

WHEREAS, the Board has determined that nuisance animals can disturb the peace and quiet expected in residential neighborhoods by making excessive and continuous noise (barking, meowing, howling, and other animal noises); and

WHEREAS, the Board has determined that it is in the best interest of the citizens of Hillsborough County to amend this ordinance to regulate excessive and continuous noise made by nuisance animals which disturbs the peace and quiet of residential neighborhoods; and

WHEREAS, it is the intent of the Board to assist in curtailing excessive noise from nuisance animals; and

WHEREAS, implementation of this amendment to Hillsborough County Ordinance 12-12 (Hillsborough County Code of Laws and Ordinances, Part A, Chapter 36, Article VI, Division 2, Sections 36-429 through 36-438) is in the best interest of the citizens of Hillsborough County.

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

SECTION 1. The aforementioned recitations are incorporated herein by reference.

SECTION 2. Hillsborough County Code of Laws and Ordinances, Part A, Chapter 36, Article VI, Division 2, Sections 36-429 through 36-438 is amended to read:

- **Sec. 36-429. Title.**

This division shall be known as the "Hillsborough County Noise Control Ordinance."
(Ord. No. 12-12, § 1, 6-27-2012)

- **Sec. 36-430. Definitions.**

As used in this division, the following terms shall be defined and applied:

Noise disturbance means any sound which:

- (1) Injures or endangers human or animal health or property;
- (2) Is unreasonably loud, raucous, jarring, disturbing or a nuisance to a reasonable person of ordinary sensibility; or
- (3) Disturbs the peace, quiet and comfort of the neighborhood and the vicinity thereof.

Person means any individual, firm, association, partnership, joint venture, or corporation.

Sound means an oscillation or alteration in pressure, stress, particle displacement, particle velocity or other physical parameter, in an elastic medium; or an auditory sensation evoked by the oscillations or alterations described in this definition. The description of sound may include any characteristic of that sound, including duration, intensity and frequency.

(Ord. No. 12-12, § 5, 6-27-2012)

- **Sec. 36-431. Purpose.**

This division is enacted to protect, promote, and preserve the health, safety, welfare, peace and quiet of the citizens of Hillsborough County through the reduction, control, and prevention of noise disturbance.

(Ord. No. 12-12, § 2, 6-27-2012)

- **Sec. 36-432. Findings.**

(a) Noise disturbance degrades the environment of Hillsborough County to a degree that:

- (1) Is harmful to the health, welfare, and safety of its inhabitants and visitors;
- (2) Interferes with the comfortable enjoyment of life and property;
- (3) Interferes with the well-being, tranquility, and privacy of the home; or
- (4) Causes or aggravates health problems.

(b) Both the effective control and the elimination of noise disturbance are essential to the health and welfare of Hillsborough County's inhabitants and visitors, and to the conduct of the normal pursuits of life, including recreation, work, and communication.

(c) The use of sound amplification equipment creates noise that may, in a particular manner and at a particular time and place, substantially and unreasonably invades the privacy, peace, and freedom of inhabitants of, and visitors to, Hillsborough County.

(d) Certain easing of noise restrictions is essential to allow the construction and maintenance of structures, infrastructure, and other elements necessary for the physical and commercial vitality of Hillsborough County.

(Ord. No. 12-12, § 3, 6-27-2012)

- **Sec. 36-433. - Scope.**

This division applies to the control of all sound originating within the jurisdictional limits of unincorporated Hillsborough County.

(Ord. No. 12-12, § 4, 6-27-2012)

- **Sec. 36-434. - General prohibition.**

No person shall make, continue, or knowingly permit to be made or continued any noise disturbance.

(Ord. No. 12-12, § 6, 6-27-2012)

- **Sec. 36-435. - Exemptions.**

Sounds caused by the following are exempt from the prohibitions set out in this division:

(1) Construction, maintenance or repair of utility infrastructure, bridges, streets, highways or railroads.

(2) Sirens, whistles, bells or alarms lawfully used by emergency vehicles or emergency providers, or sounds associated with the normal operation of railroads and locomotives.

(3) Activities conducted on County athletic facilities and public or private school grounds, which are conducted in accordance with the manner in which such spaces are generally used, including but not limited to athletic, musical, and entertainment events at public or private schools.

(4) The lawful discharge of firearms.

(5) Sounds associated with religious activities, including but not limited to bells and chimes, if not unreasonably loud to a reasonable person of ordinary sensibility.

(6) Except as otherwise prohibited in sec. 36-436 of this ordinance, barking of dogs and other sounds made by domesticated animals, if intermittent and not unreasonably loud to a reasonable person of ordinary sensibility.

(7) Sounds made by animals on lands zoned for agricultural purposes, or by nondomesticated animals.

(8) Competitive motor vehicle events which have received an Authorization from the Environmental Protection Commission of Hillsborough County (EPC) pursuant to EPC Rule 1-10.05.

(9) Activities on Florida State Fair Authority property.

(10) Sounds from motor vehicles which are subject to the Florida Uniform Traffic Control Law, F.S. Ch. 316.

(11) Sounds regulated under Chapter 1-10 of the Rules of the Environmental Protection Commission of Hillsborough County emanating from phosphate mining operations.

(12) Construction activity for which the County has issued all applicable permits, or which is exempt from County permits, provided such activity occurs between 6:00 a.m. and 8:30 p.m.

(13) Sounds emanating from agricultural land which are exempt from local government regulation pursuant to F.S. § 823.14.

(Ord. No. 12-12, § 7, 6-27-2012)

Sec. 36-436. Nuisance Animals

- (a) It shall be unlawful for the owner, or any person having temporary custody, of an animal or animals to allow or fail to restrain the animal(s), to bark, meow, whine, howl, or to make other sounds common to the species, persistently or continuously for a period of 20 minutes or longer when every animal is not contained within an enclosure sufficient to baffle loud noises and render them reasonably unobjectionable. For the purposes of this Section, persistently or continuously shall mean nonstop utterances for 20 consecutive minutes with individual interruptions of less than 20 seconds at a time during the 20 minute utterances. This subsection shall not apply to animals maintained on land zoned for agricultural purposes, nor shall it apply to a properly permitted animal shelter established for the care and/or placement of unwanted or stray animals, nor a properly zoned commercial boarding kennel or other animal facility.
- (b) This sub-section may be enforced by a Hillsborough County animal control officer or a Hillsborough County Sheriff's deputy. It is contemplated that animal control officers shall have primary enforcement obligations during regular business hours (7:00 a.m. – 7:00 p.m., Monday through Friday), with HCSO deputies assuming enforcement obligations after regular business hours.
- (c) Each separate occasion is considered a separate violation. The owner or custodian of the animal(s) may be charged with a violation of this sub-section when either the animal control officer or deputy has received, from at least two unrelated adult witnesses from different residences, or from one adult witness with a recorded video showing the alleged violation, a sworn affidavit attesting to the committing of a nuisance pursuant to this sub-section, or the animal control officer or deputy has witnessed the commission of such a nuisance. Affidavit(s) attesting to the nuisance must come from residents within a 1,000 foot radius of the property where the violation occurred.

• **Sec. 36-437. - Penalties.**

- (a) Pursuant to F.S. §125.69, a person who violates any provision of this division shall be subject to prosecution in the name of the state in the same manner as misdemeanors are prosecuted and, upon conviction, such person shall be punished by a fine not to exceed \$500.00 or by imprisonment in the County Jail not to exceed 60 days, or by both such fine and imprisonment.
- (b) Each occurrence of a violation, or, in the case of continuous violations, each day a violation occurs or continues, constitutes a separate offense and may be punished separately.

(Ord. No. 12-12, § 8, 6-27-2012)

- **Sec. 36-438. - Non-conflicting construction.**

The provisions of this division shall be liberally construed such that its purpose is effectively rendered in the interest of the health, safety and welfare of the citizens and residents of Hillsborough County. Likewise, said provisions shall be interpreted so as to not conflict with, but be supplemental to, any prohibitions or requirements delineated pursuant to law, rule, or regulation of the Environmental Protection Commission of Hillsborough County or other governmental agency charged with jurisdiction relative to prohibited noises.

(Ord. No. 12-12, § 9, 6-27-2012)

- **Sec. 36-439. - Severability.**

It is the intent of this Board of County Commissioners that should any provision of this division be declared unconstitutional or invalid, the remainder hereof shall not be affected thereby.

(Ord. No. 12-12, § 11, 6-27-2012)

SECTION 3: INCLUSION IN THE HILLSBOROUGH COUNTY CODE

The provisions of this ordinance amendment shall be included and incorporated in the Hillsborough County Code, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Hillsborough County Code, once established.

SECTION 4: SEVERABILITY

If any section, subsection, sentence, clause, phrase, or provision of this ordinance amendment is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not be construed to render the remaining provisions of this ordinance invalid or unconstitutional.

SECTION 5: FILING OF ORDINANCE AND EFFECTIVE DATE

In accordance with the provisions of §125.66, Florida Statutes, governing ordinances, a certified copy of this ordinance amendment shall be filed with the Florida Department of State by the Clerk of the Board of County Commissioners. This ordinance amendment shall take effect upon filing with the Florida Department of State.

STATE OF FLORIDA)
COUNTY OF HILLSBOROUGH)

I, PAT FRANK, Clerk of the Circuit Court and Ex Officio Clerk of the Board of County Commissioners of Hillsborough County, Florida, do hereby certify that the above and foregoing is a true and correct copy of an Ordinance adopted by the Board at its regular meeting of May 3, 2017, by a vote of 7 voting yes and 0 voting no, as the same appears in record in Minute Book 492 of the Public Records of Hillsborough County, Florida.

WITNESS my hand and official seal this 4th day of May, 2017.

PAT FRANK
CLERK OF THE CIRCUIT COURT

BY: *Michael K. Dyer*
Deputy Clerk



Approved By County Attorney
As To Form and Legal Sufficiency:

By: *Patte Stein*
Sr. Assistant County Attorney



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

May 4, 2017

Honorable Pat Frank
Clerk of the Circuit Court
Hillsborough County
419 Pierce Street, Room 140
Tampa, Florida 33601

Attention: Midge Dixon, Deputy Clerk

Dear Mrs. Frank:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Hillsborough County Ordinance No. 17-10, which was filed in this office on May 4, 2017.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb