

ORDINANCE NO. 2020- 13

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF WAKULLA COUNTY, FLORIDA, PERTAINING TO THE REGULATION OF NOISE; AMENDING CHAPTER 21, ARTICLE IV OF THE WAKULLA COUNTY CODE OF ORDINANCES ENTITLED NOISE; AMENDING SECTION 21.061 OF THE CODE ENTITLED DEFINITIONS; AMENDING SECTION 21.064 OF THE CODE ENTITLED PROHIBITION ON EXCESSIVE NOISE; REPEALING AND REPLACING SECTION 21.066 OF THE CODE ENTITLED ENFORCEMENT; REPEALING AND REPLACING SECTION 21.067 OF THE WAKULLA COUNTY CODE OF ORDINANCES, ENTITLED PENALTIES; CREATING A NEW SECTION 21.068 ENTITLED PENALTY SCHEDULE; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

RECITALS:

WHEREAS, the Board of County Commissioners (“Board”) of Wakulla County has adopted Chapter 26, Article IV of the Wakulla County Code of Ordinances (the “Noise Ordinance”) regulating unreasonable and excessive noise within the County in furtherance of the health, safety, and welfare of the citizens of Wakulla County; and

WHEREAS, the Board has determined that certain amendments to the Noise Ordinance are required in order to more effectively enforce its restrictions and prohibitions on excessive noise; and

WHEREAS, the Board further finds and determines that adoption of the amendments provided for herein is necessary and in the best interest of the citizens of Wakulla County, Florida.

THEREFORE, BE IT NOW ORDAINED by the Board of County Commissioners of Wakulla County, Florida, that:

ARTICLE 1. INCORPORATION OF RECITALS. The above recitals are hereby incorporated herein by reference.

ARTICLE 2. AMENDMENT OF SECTION 21.061 OF THE WAKULLA COUNTY CODE OF ORDINANCES, ENTITLED “DEFINITIONS:” The Board hereby amends Section 21.061 of the Wakulla County Code of Ordinances as follows:

SECTION 21.061 DEFINITIONS.

For the purposes of this Article, the following terms shall have the following meanings unless the context clearly requires otherwise. Terms not defined in this Article shall have the same meaning as their ordinary use indicates. All technical acoustical terminology and standards used in this Article which are not defined herein shall be construed in conformance with the American National Standards Institute, Inc. publication entitled "Acoustical Terminology" or its successor publication.

* * *

"Law Enforcement Officer" means any officer of the Wakulla County Sheriff's Department or an officer of a municipal law enforcement department.

* * *

"Noise Sensitive Area" means an area within the County which may be especially sensitive to unreasonable and excessive sound. The following uses shall be considered Noise Sensitive Areas: include, but are not limited to, schools, daycares, libraries, religious institutions, hospitals, nursing homes and other like facilities, and cemeteries. A cemetery shall be considered to be a Noise Sensitive Area only at such times when a funeral service is actually taking place and signs are posted to that effect.

* * *

"Real Property Line" means the imaginary line including its vertical extension that separates one parcel of real property from another. For purposes of measuring Noise generated from state sovereign submerged lands, the Real Property Line shall be deemed the erosion control line (if one has been established) or alternatively the mean high water line. For purposes of this Article, the location of the Real Property Line may be based on the best estimate of a Law Enforcement Officer seeking to measure Noise in accordance with the provisions of this Article. A failure by a Law Enforcement Officer to exactly identify the Real Property Line between two parcels of real property shall not serve to invalidate any action of the officer or Wakulla County with respect to this Article.

(underline indicates additions; ~~strikethrough~~ indicates deletions)

ARTICLE 3. AMENDMENT OF SECTION 21.064 OF THE WAKULLA COUNTY CODE OF ORDINANCES, ENTITLED “PROHIBITION ON EXCESSIVE NOISE:” The Board hereby amends Section 21.064 of the Wakulla County Code of Ordinances as follows:

SECTION 21.064. PROHIBITION ON EXCESSIVE NOISE.

(A) No Person may cause, allow, or permit the production of any Noise on any Source Property that exceeds the Noise level limits on an adjacent Receiving Property set forth in the table provided in this Subsection during the ascribed times of day. Noise that exceeds these limits shall be considered to be unreasonable and excessive.

Type of Receiving Property	7:00 a.m. to 9:00 p.m.	9:01 p.m. to 6:59 a.m.
Residential property	70 <u>65</u> dB(A)	65 <u>55</u> dB(A)
Non-industrial, Non-residential property	75 dB(A)	70 dB(A)
Industrial property	90 <u>80</u> dB(A)	85 <u>75</u> dB(A)
Noise Sensitive Areas	70 <u>60</u> dB(A)	65 <u>50</u> dB(A)

(B) Noise Measurement.

(1) Noise shall be measured on the A-weighted scale with a Sound Meter satisfying at least the applicable requirement for Type 2 Sound Meters as defined by the American National Standards Institute. Prior to measurement, the Sound Meter shall be verified and calibrated according to the manufacturer’s specifications.

(2) Noise measurements shall be made at least four feet above the ground and at a point at least ten feet away from any walls, barriers, or other obstructions. In the event the Source Property is a Residential property containing Multi-Family Dwelling Units, Noise levels should be measured within a Multi-Family Dwelling Unit adjacent to the Dwelling Unit from which the Noise is generated at a point in the center of the room most affected by the Noise that is at least three feet from any wall, ceiling, or partition. For all other types of Receiving Properties, Noise levels should be measured no closer than the Real Property Line of the Source Property. In the alternative, if the Law Enforcement Officer determines it is necessary, Noise levels may be measured from a public street or other public right-of-way.

(3) Sound Meters shall be maintained in good working order and properly calibrated. The microphone of the Sound Meter

shall be positioned so as not to create any unnatural enhancement or diminution of the Noise being measured, and a windscreen shall be used at all times.

(4) Noise shall be measured utilizing a measurement period of at least ~~ten~~ five minutes and shall be deemed to be in violation of this Article if it exceeds the Decibel levels provided in paragraph (A) of this section for more than ~~fifty~~ twenty percent of such measurement period.

(5) The Law Enforcement Officer ~~Official~~ measuring Noise pursuant to this Article shall document all Noise measurement results, which documentation shall include the following information:

(a) The sound meter used, including name, make, type, and serial number;

(b) The date of the last laboratory calibration;

(c) Verification that the sound meter was properly calibrated at the time of the measurement ~~calibrated at the beginning of each law enforcement shift prior to being issued to a particular officer;~~

(d) The location of the measuring area including the approximate distance from the source of the noise;

(e) A description of the measuring area;

(f) The time and date the noise measurement was taken;

(g) The name of any observers; and

(h) The general weather conditions.

(C) Specific Prohibitions.

(1) No Person shall use power tools and landscaping and yard maintenance equipment for non-business purposes at Noise levels in excess of Decibel limits established in paragraph (A) of this Section on or within 250 feet of a Residential Property between the hours of 9:01 p.m. and 6:59 a.m. At all other times, such tools and equipment may be used on such property notwithstanding the Noise levels established in paragraph (A) of this Section.

(2) No Person shall use power tools and landscaping and yard maintenance equipment for business purposes at Noise levels in excess of the Decibel limits established in paragraph (A) of this Section on or within 250 feet of a Residential Property between the hours of 9:01 p.m. and 6:59 a.m. At all other times, such tools and equipment may be used on such property notwithstanding the Noise levels established in paragraph (A) of this Section.

(3) No Person shall conduct Construction activity at Noise levels in excess of the Decibel limits established in paragraph (A) of this Section between the hours of 9:01 p.m. and 6:59 a.m.

(4) An exterior burglar alarm of a building or a motor vehicle alarm must be operated such that upon activation it terminates within five (5) minutes for continuous Noise or within fifteen (15) minutes for non-continuous Noise.

(~~stricken~~ words indicate deletions, underlined words indicate additions)

ARTICLE 4. REPEAL AND REPLACEMENT OF SECTION 21.066 OF THE WAKULLA COUNTY CODE OF ORDINANCES, ENTITLED "ENFORCEMENT:" The Board repeals and replaces Section 21.066 of the Wakulla County Code of Ordinances with the following:

SECTION 21.066. ENFORCEMENT.

(A) The Wakulla County Sheriff's Office shall have primary responsibility for enforcement of this Article, provided all Law Enforcement Officers shall be authorized to enforce this Article.

(B) When enforcing this Article, Law Enforcement Officers shall adhere to the following procedures:

(1) The Law Enforcement Officer shall investigate and determine if any Noise is in violation of the noise level limits contained in Section 21.064.

(2) Measurement techniques shall be done in accordance with Section 21.064.

(3) If a Noise level is found to be in violation of this Article, the Law Enforcement Officer shall give warning to the person responsible for the Noise. The warning shall advise the

person of the violation and of the possible penalty if the person fails to eliminate the Noise so that it is within permitted limits.

(4) The person receiving the warning shall have a reasonable time to comply with the warning. Absent special circumstances, reasonable time is 10 minutes.

(5) For the purposes of this Article, it is sufficient warning if the person responsible for such Noise has been warned of, or cited for, a violation of this Article within the previous 60 days.

(6) If the Noise is not eliminated or is not reduced to allowable limits within a reasonable time after the warning, or if the Noise reoccurs after warning and abatement, the person so warned and not complying shall be cited for a violation of this Article as set forth in Section 21.067.

ARTICLE 5. REPEAL AND REPLACEMENT OF SECTION 21.067 OF THE WAKULLA COUNTY CODE OF ORDINANCES, ENTITLED "PENALTIES:" The Board repeals and replaces Section 21.067 of the Wakulla County Code of Ordinances with the following:

SECTION 21.067. CITATION PROCEDURES; PENALTIES

(A) *Citation authorization.* The enforcement of this Article and the issuance of citations for violations shall be in accordance with the provisions of Chapter 162, part II, Florida Statutes. Such violations shall be prosecuted before the County Court of Wakulla County, Florida. Any Law Enforcement Officer is hereby authorized to issue a citation to a person when, based upon personal investigation, the Law Enforcement Officer has reasonable cause to believe that the person has committed a violation of this Article.

(B) *Procedures.* A citation issued by a Law Enforcement Officer shall be in a form prescribed by the County and shall contain:

(1) The date and time of issuance.

(2) The name and address of the person to whom the citation is issued.

(3) The date and time the civil infraction was committed.

- (4) The facts constituting reasonable cause.
- (5) The number of the section of the code violated.
- (6) The name and authority of the Law Enforcement Officer.
- (7) The procedure for the person to follow in order to pay the civil penalty or contest the citation.
- (8) The applicable civil penalty if the person elects to contest the citation.
- (9) The applicable civil penalty if the person elects not to contest the citation.
- (10) 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, he or she 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.

(C) *Citations to be deposited with the county court.* After issuing a citation, the Law Enforcement Officer shall deposit the original and one copy of the citation with the county court, by filing same with the clerk of the court.

(D) *Penalties.*

- (1) A violation of this Article shall be deemed a civil infraction.
- (2) The maximum civil penalty shall not exceed \$500.00.
- (3) A civil penalty of less than the maximum civil penalty shall be assessed if the person who has committed the civil infraction does not contest the citation.

(E) *Judgment of court.* If a person fails to pay the civil penalty or request a hearing, fails to appear in court to contest the citation when a hearing has been requested, or fails to appear in court as may be required, the court may enter judgment for an amount not to exceed \$500.00 per infraction and/or may issue a rule to show

cause upon the request of the County. The court rule shall require such person to appear before the court to explain why action on the citation has not been taken. If any person who is issued such rule fails to appear in response to the court's directive, the person may be held in contempt of court. At any hearing pursuant to this Article, the commission of a violation must be proved by a preponderance of the evidence. The Florida Rules of Civil Procedure and Florida Evidence Code shall be applicable.

(F) *Payment of penalties.* All civil penalties shall be paid to and collected by the clerk of the court as provided by law.

(G) *Refusal to sign or accept citation.* Any person who willfully refuses to sign and accept a citation issued by a Law Enforcement Officer shall be guilty of a misdemeanor of the second degree, punishable as provided in Section 775.082 or 775.083, Florida Statutes.

ARTICLE 6. CREATION OF SECTION 21.068 OF THE WAKULLA COUNTY CODE OF ORDINANCES ENTITLED "PENALTY SCHEDULE:" The Board hereby creates Section 21.068 of the Wakulla County Code of Ordinances, to read as follows:

SECTION 21.068. PENALTY SCHEDULE.

(A) Penalties for uncontested violations shall be as set forth in the following schedule:

Section	Description	Class	Penalty
21.064(A)	Noise level limits	I	\$50.00
21.064(A)	Noise sensitive areas	II	\$100.00
21.064(C)	Specific prohibitions	I	\$50.00

(B) A second violation of the same class I or class II offense shall result in a penalty equal to double the amount shown on the penalty schedule. Third and subsequent violations of the same class I or class II offense shall require a mandatory court appearance.

ARTICLE 7. CODIFICATION IN THE CODE OF ORDINANCES. It is the intention of the Board, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Wakulla County Code of Ordinances, and that the sections of this Ordinance may be renumbered to accomplish such intent.

ARTICLE 8. SEVERABILITY. Should any section or provision of this Ordinance or any portion thereof, or any paragraph, sentence, or word be declared by a court of competent

jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof other than the part declared to be invalid.

ARTICLE 9. EFFECTIVE DATE. A certified copy of this Ordinance shall be filed with the Department of State and shall become effective ten (10) days after its enactment.

PASSED AND DULY ENACTED by the Board of County Commissioners of Wakulla County, Florida in regular session, this 13th day of July, 2020.

**WAKULLA COUNTY
BOARD OF COUNTY COMMISSIONERS**



Mike Stewart, Chairman

ATTEST:

Kelly Sessor D.C. for:
Brent X. Thurmond
Clerk of Court



APPROVED AS TO FORM AND CONTENT:

Heather J. Encinosa
Heather J. Encinosa
County Attorney



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

July 14, 2020

Mr. Brent X. Thurmond
Clerk of Circuit and County Courts
Wakulla County
3056 Crawfordville Highway
Crawfordville, Florida 32327

Attn: Ms. Kelly Sessor

Dear Mr. Thurmond:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Wakulla County Ordinance No. 2020-13, which was filed in this office on July 14, 2020.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb