

ORDINANCE NO. 2000-06

AN ORDINANCE OF HERNANDO COUNTY, FLORIDA; SETTING FORTH FINDINGS REGARDING THE NEGATIVE SECONDARY EFFECTS OF EXCESSIVE AND UNNECESSARILY DISTURBING SOUND IN GENERAL AND SUCH SOUND IN CONNECTION WITH LOCATIONS LICENSED TO SERVE ALCOHOLIC BEVERAGES IN PARTICULAR; PROVIDING THAT CERTAIN SOUND PRODUCED WITHIN LOCATIONS LICENSED TO SERVE ALCOHOLIC BEVERAGES IS UNLAWFUL; PROVIDING THAT CERTAIN SOUND PRODUCED ON PROPERTY OWNED OR LEASED BY LOCATIONS LICENSED TO SERVE ALCOHOLIC BEVERAGES IS UNLAWFUL; DEFINING THE TERMS "LOCATION," "SOUND" AND "PLAINLY AUDIBLE"; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR SEVERABILITY, INCLUSION INTO THE CODE AND AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE HERNANDO COUNTY BOARD OF COUNTY COMMISSIONERS, AS FOLLOWS:

SECTION 1. FINDINGS.

The Hernando County Board of County Commissioners has heard extensive testimony on numerous occasions as to the problems associated with locations that serve alcoholic beverages and produce or permit excessive and unnecessarily disturbing sound. Based on such testimony, the Board hereby finds and determines as follows:

(a) This ordinance is within Hernando County's constitutional power to enforce because the county's efforts to protect public health and safety are clearly within its police powers.

(b) This ordinance furthers the important government interests of regulating commercial conduct and preventing public harm through a limitation on sound amplification narrowly tailored to be applicable only to excessive and unnecessarily disturbing sound emanating from locations licensed to serve alcoholic beverages and of combating the harmful secondary effects associated with such excessive and

FILED
2000 MAY 11 PM 12:42
DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

unnecessarily disturbing sound.

(c) The harmful secondary effects of such excessive and unnecessarily disturbing sound include but are not limited to:

(i) damage to residential property resulting from the vibrations of low-frequency amplified bass sounds, which have caused cracks in windows and movement of items in the homes on such property.

(ii) damage to persons forced to endure excessive and unnecessarily disturbing sound to the extent of stress, hearing damage and other physical impairments.

(iii) damage to the value of adjacent or nearby residential property due to the presence of such excessive and unnecessarily disturbing sound.

(d) Locations which serve alcoholic beverages and use sound amplification to an excessive and unnecessarily disturbing extent tend to present the following additional secondary effects, particularly where the persons in control of the location permit or tolerate continued excessive and unnecessarily disturbing sound in the area of the location after such a location has otherwise closed or ceased to serve alcoholic beverages:

(i) extensive trash and litter disposed of by patrons of such a location on public and private property.

(ii) drunkenness, profanity, public urination and public sexual displays by patrons of such a location

(iii) a higher rate of both violent and nonviolent crimes in the immediate vicinity of such a location

SECTION 2. UNLAWFUL SOUND FROM WITHIN LOCATIONS LICENSED TO SERVE ALCOHOLIC BEVERAGES.

It is unlawful for any person managing, employed at, operating or occupying any location licensed to serve alcoholic beverages to operate or amplify, or to permit or require the operation or amplification of, the sound produced by a radio, tape player, phonograph, disc player, computer, speaker or other mechanical sound-making device or by an instrument, including an amplified, acoustic or percussive instrument, from within such location so that the sound of such device or instrument is:

- (a) Plainly audible on any property zoned and used for residential purposes; or
- (b) Disseminated in such a manner as to cause noise disturbance which disturbs the peace, quiet and comfort of a residential neighborhood, or
- (c) Unreasonably loud, raucous, jarring, disturbing, or a nuisance to persons within a residential neighborhood.

SECTION 3. UNLAWFUL SOUND FROM PROPERTY OWNED OR LEASED BY LOCATIONS LICENSED TO SERVE ALCOHOLIC BEVERAGES.

It is unlawful for any person managing, employed at, operating or occupying any location licensed to serve alcoholic beverages to permit the use of any portion of the owned or leased property, including any common areas appurtenant to a leasehold, of such location for the operation or amplification of sound produced by a radio, tape player, phonograph, disc player, computer, speaker or other mechanical sound-making device or by an instrument, including an amplified, acoustic or percussive instrument, so that the sound of such device or instrument is:

- (a) Plainly audible on any property zoned and used for residential purposes; or
- (b) Disseminated in such a manner as to cause noise disturbance which disturbs the

peace, quiet and comfort of a residential neighborhood, or

(c) Unreasonably loud, raucous, jarring, disturbing, or a nuisance to persons within a residential neighborhood.

SECTION 4. "LOCATION" DEFINED.

For purposes of this ordinance, "location" shall mean all premises on a single parcel of owned or leased property with respect to which an alcoholic beverage license applies, including any adjoining or associated premises owned, leased or controlled by the licensee, whether or not such adjoining or associated premises are specifically licensed to serve alcoholic beverages.

SECTION 5. "SOUND" DEFINED

For purposes of this ordinance, "sound" shall mean an oscillation in sound pressure level, stress, particle displacement, particle velocity or another physical parameter, in a medium with internal forces. The description of sound may include any characteristic of such sound, including duration, intensity, frequency or vibration.

SECTION 6. "PLAINLY AUDIBLE" DEFINED

For purposes of this ordinance, "plainly audible" shall mean any sound produced by a radio, tape player, phonograph, disc player, computer, speaker or other mechanical sound-making device or instrument, including an amplified, acoustic or percussive instrument, that can be clearly heard by a person using his or her normal hearing faculties. Any code enforcement or law enforcement officer who hears a sound that is plainly audible, as defined herein, shall be entitled to measure the sound according to the following standards:

(a) The primary means of detection shall be by means of the complainant's ordinary

auditory senses, so long as their hearing is not enhanced by any mechanical device, such as a hearing aid.

(b) The complainant need not determine the particular words or phrases being produced or the name of any song or artist producing the sound. The detection of a rhythmic bass reverberating type sound is sufficient to constitute a plainly audible sound.

(c) The officer must be able to determine the source or origin of the sound either by direct line of sight from the affected residential property or by articulating such other reasonable basis for such determination if there is no direct line of sight confirmation of the source or origin of the sound.

SECTION 7. PENALTIES

A person violating the provisions of this ordinance shall be fined according to the following schedule:

(a) Violations between the hours of 7:00 a.m. and 10:00 p.m. shall be punished by a fine of \$100.00, plus any applicable administrative and court costs.

(b) Violations between the hours of 10:00 p.m. and 2:00 a.m. shall be punished by a fine of \$500.00, plus any applicable administrative and court costs.

(c) Violations between the hours of 2:00 a.m. and 7:00 a.m. may be punished by a fine of \$500.00, plus any applicable administrative and court costs, and a sentence of up to six months in jail.

Violations of this ordinance may also be prosecuted in the same manner in which misdemeanors are prosecuted. In addition to the penalties and remedies above, the County may institute any appropriate actions or proceedings to prevent, restrain,

correct or abate a violation of this ordinance as may be provided by law.

SECTION 8. SEVERABILITY

The provisions of this ordinance are severable; and if any section, subsection, sentence, clause, or provision is held invalid by any court of competent jurisdiction, the remaining provisions of this ordinance shall not be affected thereby.

SECTION 9. INCLUSION IN THE CODE

It is the intention of the Board of County Commissioners of Hernando County, Florida, and it is hereby provided, that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of Hernando County, Florida. To this end, the sections of this ordinance may be renumbered or relettered to accomplish such intention, and that the word "ordinance" may be changed to "section", "article", or other appropriate designation.

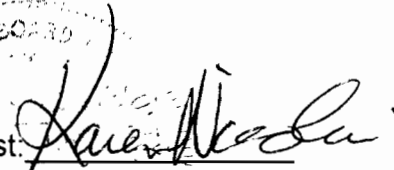
SECTION 10. EFFECTIVE DATE


This Ordinance shall become effective upon receipt of official acknowledgment from the Secretary of State that said Ordinance has been filed.

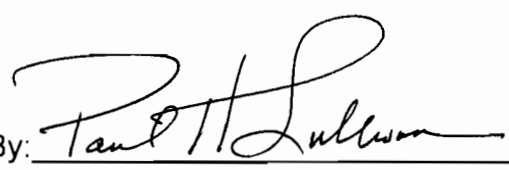
ADOPTED BY THE HERNANDO COUNTY BOARD OF COUNTY

COMMISSIONERS in Regular Session this 9th day of May, 2000.

**BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA**

Attest: 
KAREN NICOLAI
Clerk



By: 
PAUL H. SULLIVAN
Chairman