

ORDINANCE 15-1482

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF HAINES CITY, FLORIDA AMENDING THE CODE OF ORDINANCES, CHAPTER 13 ARTICLE II NOISE CONTROL SECTION 13-35; SPECIFICALLY ADOPTING BY REFERENCE POLK COUNTY ORDINANCE 14-030 PERTAINING TO UNREASONABLE EXCESSIVE NOISE IN MOTOR VEHICLES; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HERewith, PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Haines City, Florida, finds it necessary to amend the Code of Ordinances regarding the regulation of unreasonable excessive noise control in motor vehicles; and

WHEREAS, the Board of County Commissioners adopted Ordinance No. 14-030 on December 16, 2014 which established incorporation of recitals, purpose and intent, definitions, prohibited acts, conflict with other laws, penalties, enforcement procedures, and applicability; and

WHEREAS, it is desirable and beneficial to the citizens and residents of the City of Haines City, Florida for the City Commission to adopt by reference the County code in order to properly secure the health, safety, and welfare of the public; and

WHEREAS, the City of Haines City fully supports this adopted Ordinance.

NOW THEREFORE BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF HAINES CITY, FLORIDA AS FOLLOWS:

SECTION 1. Chapter 13-35 of Article II Noise Control within the City of Haines City Code of Ordinances existing as of the day before the Second Reading of this Ordinance is hereby amended with the provisions as indicated in strike through and underline language, as depicted in Exhibit "A" attached hereto.

SECTION 2. The City of Haines City reserves the right to enforce, Polk County Ordinance 14-030, and any amendments henceforth without further City Commission action, as depicted in Exhibit "B" attached hereto.

SECTION 3. CODIFICATION. The provisions of this ordinance shall be codified and incorporated into the Code of Ordinances of the City of Haines City, Florida.

SECTION 4. CONFLICTS. That all prior Ordinances are hereby repealed to the extent necessary to give this Ordinance its full force and effect.

SECTION 5. SEVERABILITY. If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full effect.

SECTION 6. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its adoption.

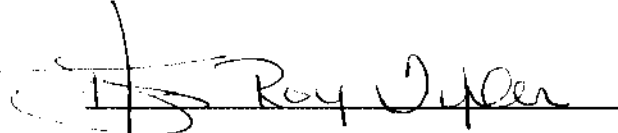
INTRODUCED AND PASSED on first reading by the City Commission of the City of Haines City, Florida, at regular session this 8th day of January, 2015.

ATTEST:

APPROVED:



Linda Bourgeois, City Clerk

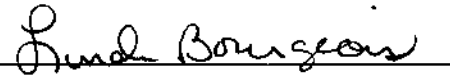


H. L. "Roy" Tyler, Mayor-Commissioner

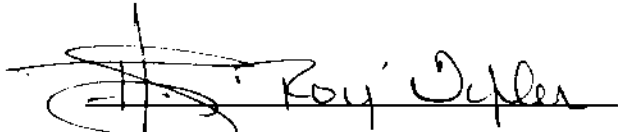
PASSED on second and final reading by the City Commission of the City of Haines City, Florida, at regular session this 22nd day of January, 2015.

ATTEST:

APPROVED:

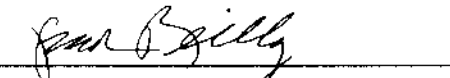


Linda Bourgeois, City Clerk



H. L. "Roy" Tyler, Mayor-Commissioner

APPROVED AS TO FORM AND CORRECTNESS:



Fred Reilly, City Attorney

Exhibit "A"

ARTICLE II. - NOISE CONTROL

Sec. 13-35. - Operating of radios or other mechanical sound-making devices or instruments in vehicles; exemptions; penalties.

~~(a) It shall be unlawful and shall constitute a nuisance for any person operating or occupying a motor vehicle on a street, highway or on other public or private property, to operate or amplify the sound produced by a radio, tape player, compact disc player or other mechanical sound-making device or instrument from within the motor vehicle so that the sound is:~~

~~(1) Plainly audible at a distance of one hundred (100) feet or more from the motor vehicle; or~~

~~(2) Louder than necessary for the convenient hearing by persons inside the vehicle in residential areas or areas adjoining churches, schools or hospitals.~~

~~(b) The provisions of this section shall not apply to any law enforcement motor vehicle equipped with any communication device necessary in the performance of law enforcement duties or to any emergency vehicle equipped with any communication device necessary in the performance of any emergency procedures.~~

~~(c) The provisions of this section do not apply to motor vehicles used for business or political purposes which in the normal course of conducting such business uses sound-making devices. The provisions of this subsection shall not be deemed to prevent the city, with respect to the streets and highways within its boundaries and within the reasonable exercise of the police power, from regulating the time and manner in which such business may be operated.~~

~~(d) The provisions of this section do not apply to the noise made by a horn or other warning device permitted by Section 316.271, Florida Statutes.~~

~~(e) The following penalties apply to a violation of this section:~~

~~(1) A person who violates this section 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 as specified in subsection (2) below or by imprisonment in the county jail as specified in subsection (3) below or by both fine and imprisonment.~~

~~(2) Fines:~~

~~a. The fine for a first violation shall be one hundred dollars (\$100.00).~~

~~b. The fine for the second violation shall be one hundred fifty dollars (\$150.00).~~

~~c. The fine for a third violation shall be two hundred dollars (\$200.00).~~

~~d. The fine for each subsequent violation shall be five hundred dollars (\$500.00).~~

~~(3) Imprisonment:~~

~~a. The imprisonment for a second violation shall not exceed ten (10) days.~~

~~b. The imprisonment for a third violation shall not exceed thirty (30) days.~~

~~c. The imprisonment for each subsequent violation shall not exceed sixty (60) days.~~

The City of Haines City hereby adopts by reference the Polk County Excessive Noise in Motor Vehicles Ordinance No. 14-030, adopted December 16, 2014, and kept on file with the City.

ORDINANCE NO. 14 - 030

AN ORDINANCE RELATING TO NOISE CONTROL TO BE KNOWN AND CITED AS THE POLK COUNTY NOISE CONTROL ORDINANCE; MAKING FINDINGS; PROVIDING AUTHORITY; PROVIDING SCOPE; PROVIDING DEFINITIONS; PROHIBITING NOISE DISTURBANCES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR SPECIFIC PROHIBITIONS; PROVIDING FOR LIBERAL, NON-CONFLICTING CONSTRUCTION; PROVIDING FOR EXEMPTIONS; PROVIDING FOR SEPARATE VIOLATIONS; PROVIDING FOR RESOLUTIONS; REPEALING ORDINANCE 04-033; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article II, Section 7 of the Florida Constitution states "(a) It shall be the policy of the state to conserve and protect its natural resources and scenic beauty. Adequate provision shall be made by law for the abatement of air and water pollution and of excessive and unnecessary noise and for the conservation and protection of natural resources;" and

WHEREAS, unreasonably loud, raucous, jarring, unseemly, and disturbing noise has been a serious problem in Polk County and problems will increase in conjunction with the growth, development, and urbanization of Polk County and changes in culture and technology; and

WHEREAS, it is the purpose of this ordinance to prevent, prohibit, and provide for the abatement of disturbing noise in order to reasonably protect and promote the health, safety, general welfare, and the reasonable peace and quiet of the residents of Polk County; and

WHEREAS, such disturbing noise problems may not be amenable to practical measurement by decibel measuring apparatus.

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

SECTION 1: TITLE

This ordinance shall be known and may be cited as the Polk County Noise Control Ordinance.

SECTION 2: FINDINGS OF FACT

The foregoing findings are incorporated herein by reference and made a part hereof.

SECTION 3: AUTHORITY

This ordinance is enacted under the Home Rule Power of Polk 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 noise.

SECTION 4: SCOPE

This ordinance shall be effective throughout the unincorporated areas of Polk County, Florida.

SECTION 5: DEFINITIONS

As used in this ordinance, the following terms shall have the following meanings:

- (1) "Noise Disturbance" shall mean any sound which is:
 - (a) Of such duration, volume, or intensity as to be injurious to human or animal life, or property;
 - (b) Of such duration, volume, or intensity as to unreasonably interfere with the comfortable enjoyment of life, property, or the conduct of business;
 - (c) Of such duration, volume, or intensity as to alarm, disturb, or annoy reasonable people; or
 - (d) Unreasonably loud, raucous, jarring, disturbing, unseemly, or a nuisance.
- (2) "Amplified" shall mean increased in volume or intensity by means of an electrical or mechanical device.
- (3) "Motorized vehicle" means any transportation vehicle that is propelled, other than by human or animal power, on land. This includes, but is not limited to, motorcycles, ATVs, go-karts, automobiles, and trucks.

SECTION 6: PROHIBITION OF NOISE DISTURBANCE

No person or business may make, continue, permit, or cause to be made or continued, any Noise Disturbance as defined in this ordinance.

Factors that shall be considered in determining whether a Noise Disturbance in violation of this ordinance has occurred, shall consist of, but may not necessarily be limited to, the following:

- (a) The duration, volume, or intensity of the noise;
- (b) The nature of the area and the land use district from which the sound emanates in relation to the area where it is perceived;
- (c) The time of day or night the noise occurs; and/or
- (d) Whether the noise is recurrent, intermittent, or constant.

SECTION 7: ENFORCEMENT

The County's code enforcement officers, the Polk County Sheriff's Office and any other person authorized to enforce county ordinances may enforce the provisions of this Ordinance. Any enforcement action or legal remedy available under controlling state law, including, but not limited to, prosecution as a misdemeanor with a fine not exceeding Five Hundred Dollars (\$500.00) or by imprisonment for a term not exceeding sixty (60) days or by both fine and imprisonment, may be imposed as a penalty. When enforced by a code enforcement officer, the enforcement provisions and procedures contained in the Polk County Code Enforcement Special Magistrate Ordinance, as may be amended, are incorporated herein by reference and will apply. Nothing contained herein shall prevent the County from taking such other lawful action in law and equity as may be necessary to remedy any violation of any part of this Ordinance, including without limitations:

- (1) Pursuit of injunctive and/or declaratory relief in a court of competent jurisdiction; and
- (2) Utilizing any other action or enforcement method permitted by law.

SECTION 8: SPECIFIC PROHIBITIONS

The following specified acts and circumstances are hereby declared to constitute a prohibited Noise Disturbance in violation of this ordinance; provided however, such enumeration is not and shall not be deemed to be exclusive; provided further that all other acts and circumstances meeting the definition of Noise Disturbance are likewise declared to be in violation of this ordinance.

- (a) Radios, Televisions, Musical Instruments and Similar Devices, and Amplified Human Voice. Playing or permitting the playing of any radio, television, audio system, musical instrument or similar device, or amplifying the human voice, sound or music, to such a volume as to be unreasonably loud, raucous, jarring, unseemly or disturbing to people within the area of audibility.

(b) Barking Dogs. Allowing a dog to bark, howl, or whine continuously between the hours of 9:00 P.M. and 6:00 A.M. until such noise rises to the level of a Noise Disturbance under Section 5 of this ordinance. Any person or entity warned or cited for a violation under this specific subsection shall be subject to the conditions, procedures, penalties, and exemptions found in the Polk County Animal Control and Animal Services Ordinance and its amendments. The Sheriff's Office may defer enforcement against the owner of the animal to Animal Control in accordance with the Polk County Animal Control and Animal Services Ordinance, and its amendments, if the law enforcement officer is unable to personally observe the Noise Disturbance being created by the dog.

(c) Motorized Vehicles. It is a violation of this ordinance to drive a motorized vehicle in a manner that causes the tires to screech or squeal repeatedly on public or private property such that it causes a Noise Disturbance; repeatedly accelerate and decelerate a motorized vehicle on public or private property such that it causes a noise disturbance; or repeatedly shift the gears of the motorized vehicle up and down on private or public property, such that it creates a noise disturbance.

SECTION 9: LIBERAL, NON-CONFLICTING CONSTRUCTION

The provisions of this ordinance 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 Polk County.

SECTION 10: EXEMPTIONS

The provisions of this ordinance, except for those specific prohibitions set forth in Section 8 of this ordinance, shall not apply to the following sounds:

- (a) The unamplified human voice;
- (b) Railway locomotives or cars;
- (c) Household or farming tools, appliances, and equipment meeting manufacturer's specifications as to sound, if applicable;
- (d) Aircraft and airport activity conducted in accordance with federal laws and regulations;
- (e) Maintenance of public service facilities;
- (f) Law enforcement activities, including training;
- (g) Licensed game hunting activities;
- (h) Emergency signals during emergencies;
- (i) Emergency testing;
- (j) Refuse collection and mosquito fogging;
- (k) Operation of any regulated or publicly owned utility;
- (l) Construction activities exempt from, or for which Polk County has issued a development permit; provided such activity occurs between 6:00 A.M. and 9:00 P.M.;

- (m) Organized athletic contests provided such activity occurs between 6:00 A.M. and 9:00 P.M.;
- (n) Sounds relating to and originating within any non-residential land use districts under the Polk County Comprehensive Plan and Land Development Code(except for those sounds specifically prohibited in Section 8 of this ordinance);
- (o) Sounds relating to and originating from legal, pre-existing, non-conforming, commercial and industrial activities (except for those sounds specifically prohibited in Section 8 of this ordinance);
- (p) Boats and boating activity;
- (q) Phosphate mining activity;
- (r) Emergency devices and vehicles used for the purpose of alerting people of an emergency, or the emission of sound in performance of emergency work;
- (s) Lawful public gatherings provided such activity occurs between 6:00 A.M. and 9:00 P.M. (except for those sounds specifically prohibited in Section 8 of this ordinance); and
- (t) Reasonable operation of equipment associated with the following activities between 6:00 A.M. and 9:00 P.M.: Lawn care, soil cultivation, maintenance of trees, hedges, and gardens; the use of lawnmowers, saws, and tractors; tree trimming; and limb clipping.

SECTION 11: SEPARATE VIOLATIONS

Each separate occurrence shall be a separate violation.

SECTION 12: RESOLUTIONS

The Board of County Commissioners may adopt such resolutions as are necessary to effectively administer this ordinance.

SECTION 13: REPEAL

Polk County Ordinance 04-33 is hereby repealed.

SECTION 14: SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is held invalid or unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 15: EFFECTIVE DATE

A certified copy of this ordinance shall be filed with the Florida Department of State. This ordinance shall take effect upon the receipt of acknowledgment that the ordinance has been filed with that office.

STATE OF FLORIDA)
)
COUNTY OF POLK)

I Stacy M. Butterfield, County Clerk and Comptroller for Polk County, Florida, hereby certify that the foregoing is a true and correct copy of Ordinance No.14-030 adopted by the Board on July 8, 2014.

WITNESS my hand and official seal on this 9th day of July, 2014.

STACY M. BUTTERFIELD, CLERK

By: Alison Prevatt
Alison Prevatt
Deputy Clerk





HAINES CITY

WWW.HAINESCITY.COM

CITY MANAGER MEMORANDUM

To: The Honorable Mayor and City Commissioners
Through: Jonathan Evans, City Manager
From: Brian McNulty, Assistant Police Chief
Date: January 22, 2015
Subject: Excessive Noise Ordinance

Introduction

The purpose of this item is to amend the Code of Ordinances, Chapter 13 Article II, Noise Control, Section 13-35, by reference to Polk County Ordinance 14-030.

Background

Polk County Ordinance 14-030 (Unreasonably Excessive Noise in Motor Vehicles) was adopted on December 16, 2014, by the Board of County Commission and establishes incorporation and recital, purpose of intent, definitions, prohibited acts, conflict with other laws, penalties, enforcement procedures, and applicability. It also serves to be desirable and beneficial to the citizens and residents of the City of Haines City to adopt by reference this Ordinance.

Budget Impact

There is no budget impact as a result of this request.

Recommendation

Adopt the Ordinance by reference amending Ordinance 13-35 to incorporate Polk County Ordinance 14-030.

Attachments:

- a) Excessive Noise in Vehicles Ordinance Draft (2) (RTF)
- b) Noise Ordinance BOCC (PDF)