

ORDINANCE NO. 2014-16

AN ORDINANCE OF WALTON COUNTY RELATING TO NOISE; PROVIDING FOR PURPOSE AND LEGISLATIVE FINDINGS; PROVIDING FOR AUTHORITY; PROVIDING FOR DEFINITIONS; PROVIDING FOR PROHIBITED ACTS; PROVIDING FOR EXEMPTIONS; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Walton County, Florida finds and declares that Excessive noise within the county is a condition which has existed for some time and the amount and intensity of such noise is increasing; and

WHEREAS, such excessive noise is a detriment to the health, safety, welfare and quality of life of the people of this county; and

WHEREAS, the necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the health, safety, welfare and quality of life of the people of this county.

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

The following Walton County Ordinances are hereby repealed:

- (1) Walton County Ordinance No. 1996-15, codified as Chapter 9, Article 5, Division 2 of the Walton County Code;
- (2) Walton County Ordinance No. 1997-30, codified as Chapter 9, Article 5, Division 2 of the Walton County Code.

A new Chapter 9, Article 5, Division 1 of the Walton County Code is hereby created to read as follows:

SECTION 1. AUTHORITY

The authority for the enactment of this Ordinance is § 125.01, Florida Statutes, and the Florida Constitution.

SECTION 2. DEFINITIONS

For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning herein given. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number. Words not defined shall be given their common and ordinary meaning.

Agriculture shall mean the practice of using natural resources to produce goods and food products.

Industrial Uses shall mean the activities within land areas predominantly connected with manufacturing, assembly, processing, or storage of products. This definition shall include the primary uses found in Walton County Land Development Code Section 2.01.04 for light industrial, medium industrial and heavy industrial categories.

Noise Disturbance shall mean any sound of a continuous duration which disturbs the peace, quiet and repose of any other person of reasonable and ordinary sensibilities.

Outdoor Event shall mean any planned assemblage of the general public held outdoors within the unincorporated areas of Walton County for which admission is charged and/or booths are available for rent. Outdoor events may include, but not be limited to, contests, fairs, carnivals, festivals, concerts, seasonal or annual events, competitions, car shows, art/craft shows, or other similar activities which meet the definition listed herein for outdoor events.

Plainly Audible shall mean any sound produced by any source that can be clearly heard by a person using his or her unaided hearing faculties twenty-five (25) feet or more from the property line of the premises from which the sound emits.

Premises shall mean the curtilage of and all improved structures on a parcel of real property, and shall include any leasehold interest.

Residence shall mean a permanent structure used or intended to be used primarily for single-family or multifamily dwelling purposes.

SECTION 3. APPLICABILITY

This Ordinance shall be applied within all unincorporated areas of Walton County.

SECTION 4. CIVIL INFRACTION

- (1) *Prohibited Act.* It shall be unlawful and a violation of the section for a person to make, cause or permit if within his or her control the making or causing of any noise disturbance that is plainly audible from within an occupied residence not the

residence of the person making, causing or permitting the making or causing of the noise disturbance.

(2) *Responsibilities of Owners and Leaseholders.* Any owner in possession or holder of a leasehold interest of any premises upon which any violation of this section is alleged to have occurred, and the on-premises manager or agent of such owner or holder, shall be deemed to be exercising control under this section, unless any third-party invitee or licensee is directly responsible for the making or causing thereof, and the exerciser of control has made all reasonable and lawful attempts to abate the noise disturbance or sound, and, if necessary, to remove the third party from the premises by summoning the appropriate law enforcement agency; provided, however, that such manager or agent of such owner or holder shall not be responsible for the actions of any trespassers.

(3) *Penalties:*

a. *Warning.* When a law enforcement officer or code enforcement officer determines after investigation that there is a violation of this section, the law enforcement officer or code enforcement officer shall first issue a written warning to the person making, causing or permitting the making or causing of the noise disturbance. The written warning shall advise the person of the violation and of the possible penalties if the person fails to immediately eliminate the noise disturbance.

b. *Civil Infraction.* A violation of this section after a written warning has been issued shall constitute a civil infraction. A person found in violation of this section after having been issued a written warning shall be fined in the amount of \$500.

SECTION 5. CRIMINAL OFFENSE

(1) *Prohibited Act.* It shall be unlawful and a violation of the section for a person to make, cause or permit if within his or her control the making or causing of any noise disturbance between the hours of 10 p.m. and 6 a.m. that is plainly audible from within an occupied residence not the residence of the person making, causing or permitting the making or causing of the noise disturbance.

(2) *Responsibilities of Owners and Leaseholders.* Any owner in possession or holder of a leasehold interest of any premises upon which any violation of this section is alleged to have occurred, and the on-premises manager or agent of such owner or holder, shall be deemed to be exercising control under this section, unless any third-party invitee or licensee is directly responsible for the making or causing thereof, and the exerciser of control has made all reasonable and lawful attempts to abate the noise

disturbance or sound, and, if necessary, to remove the third party from the premises by summoning the appropriate law enforcement agency; provided, however, that such manager or agent of such owner or holder shall not be responsible for the actions of any trespassers.

(3) *Penalties:*

- a. *Warning.* When a law enforcement officer or code enforcement officer determines after investigation that there is a violation of this section, the law enforcement officer or code enforcement officer shall first issue a written warning to the person making, causing or permitting the making or causing of the noise disturbance. The written warning shall advise the person of the violation and of the possible penalties if the person fails to immediately eliminate the noise disturbance.
- b. *Criminal Offense.* A violation of this section within twenty-four (24) hours of the issuance of a written warning shall constitute a criminal offense and shall be prosecuted in the same manner as a second degree misdemeanor, pursuant to § 125.69, *Florida Statutes*.

SECTION 6. EXEMPTIONS

The provisions of Section 4 and Section 5 shall not apply to the following:

- (1) Sounds resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency;
- (2) Sounds made by sanitation vehicles on a public right of way;
- (3) Sounds made by road construction or maintenance projects;
- (4) Sounds made by construction operations between 6:30 a.m. and 7 p.m. on Monday through Friday and between 7:00 a.m. and 7:00 p.m. on Saturday for which building permits have been issued, or construction operations not requiring permits due to ownership of the project by an agency of government; providing all equipment is operated in accordance with its manufacturers' specifications and uses as standard equipment, its manufacturers' mufflers and noise-reducing equipment and in proper operating condition;
- (5) Sounds resulting from back-up alarms so long as they are self-adjusting to ambient sound levels.
- (6) Sounds made by routine lawn maintenance between sunrise and sunset;

- (7) Sounds made by military operations;
- (8) Sounds resulting from the normal and legal operations of aircraft;
- (9) Sounds resulting from the normal and legal operations of industrial uses within a properly designated land use district of the Walton County Land Development Code and Walton County Comprehensive Plan;
- (10) Sounds resulting from the normal and legal operations of agriculture within a properly designated land use district of the Walton County Land Development Code and Walton County Comprehensive Plan;
- (11) Sounds coming from a permitted outdoor event between 6 a.m. and 10 p.m. within a properly designated land use classification allowing for permitted outdoor events;
- (12) Sounds coming from an authorized school event;

SECTION 7. SEVERABILITY

If any section, phrase, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

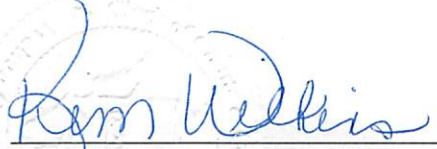
SECTION 8. EFFECTIVE DATE


This Ordinance shall become effective immediately upon adoption by the Walton County Board of County Commissioners.

PASSED AND DULY ADOPTED in regular session, by the Board of County Commissioners of Walton County, Florida, this 8th day of July, 2014.

Attest:

BOARD OF COUNTY COMMISSIONERS
OF WALTON COUNTY, FLORIDA


Alex Alford, Clerk of Circuit Court
and County Comptroller


W.N. "Bill Chapman", Chair