



COLUMBIA COUNTY BOARD OF COUNTY COMMISSIONERS AGENDA ITEM REQUEST FORM

The Board of County Commissioners meets the 1st and 3rd Thursday of each month at 5:30 p.m. in the Columbia County School Board Administrative Complex Auditorium, 372 West Duval Street, Lake City, Florida 32055. All agenda items are due in the Board's office one week prior to the meeting date.

Today's Date: 6/11/2020 Meeting Date: 6/18/2020

Name: Joel Foreman Department: County Attorney

Division Manager's Signature:

A handwritten signature in blue ink, appearing to be "J. Foreman", is written over the signature line.

1. Nature and purpose of agenda item:

ORDINANCE NO. 2020-07: AN ORDINANCE PROVIDING FOR NOISE CONTROL

2. Recommended Motion/Action:

To adopt Ordinance 2020-07.

3. Fiscal impact on current budget.

This item has no effect on the current budget.

MEMORANDUM

To: Board Agenda, June 18, 2020

From: Joel F. Foreman

Re: **ORDINANCE NO. 2020-07**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF COLUMBIA COUNTY, FLORIDA, AMENDING CHAPTER 74 OF THE COUNTY CODE OF ORDINANCES ENTITLED "OFFENSES AND MISCELLANEOUS PROVISIONS" BY PROVIDING FOR NOISE CONTROL; CREATING ARTICLE V ENTITLED "NOISE CONTROL"

Date: June 11, 2020

Attached is proposed Ordinance 2020-07 which, if adopted, would constitute a Noise Control Ordinance for the County.

The ordinance relies on a nuisance standard, and essentially prohibits the making of "loud and raucous noise" that serves to degrade the environment of the County. There is no requirement for the purchase of sound-measuring equipment or the training expenses associated with it. Enforcement is through the Sheriff's Office. Violations constitute civil infractions and carry a fine of up to \$500.00.

I have conferred with Sheriff Hunter and he is of the opinion that an ordinance based on a nuisance standard can be more readily enforced by his deputies. The objective of these ordinances is primarily to obtain timely compliance rather than imposing fines and punishments.

Several times commissioners have expressed that a Noise Control Ordinance would not be necessary if people would exercise common sense and courtesy to one another. This ordinance offers minimal restrictions on individual behavior on private property and requires only that noise be limited to the extent necessary to "promote the health, safety, welfare, peace, and quiet of the citizens of the county through the reduction, control, and prevention of loud and raucous noise, or any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity".

Since this is the County's first true Noise Control Ordinance, I recommend adoption with the caveat that the Board should revisit the performance of the ordinance after the first year.

Recommended motion:

To adopt Ordinance 2020-07.

1 **COLUMBIA COUNTY, FLORIDA**
2 **ORDINANCE NO. 2020-07**

3 **AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF**
4 **COLUMBIA COUNTY, FLORIDA, AMENDING CHAPTER 74 OF THE**
5 **COUNTY CODE OF ORDINANCES ENTITLED “OFFENSES AND**
6 **MISCELLANEOUS PROVISIONS” BY PROVIDING FOR NOISE**
7 **CONTROL; CREATING ARTICLE V ENTITLED “NOISE CONTROL”;**
8 **PROVIDING FOR CONFLICTS, PROVIDING FOR SEVERABILITY;**
9 **PROVIDING FOR AN EFFECTIVE DATE.**

10 **WHEREAS**, Article II, Section 7 of the Constitution of the State of Florida provides
11 that “Adequate provision shall be made by law for the abatement of air and water pollution and
12 of excessive and unnecessary noise and for the conservation and protection of natural resources”;

13 **WHEREAS**, adoption of noise control ordinances is justified by the need to protect
14 citizens from unreasonably disturbing and pervasive noises because an unwilling listener is
15 practically helpless to escape this sort of interference with his privacy except through
16 enforcement of such ordinances; and

17 **WHEREAS**, it is not the intention of the Board of County Commissioners to restrict or
18 punish the free exercise of any citizen’s First Amendment rights, but to protect, preserve, and
19 promote the health, safety, welfare, peace, and quiet of the citizens of the county through the
20 reduction, control, and prevention of loud and raucous noise, or any noise which unreasonably
21 disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons
22 of ordinary sensitivity.

23 **NOW, THEREFORE**, BE IT ORDAINED BY THE BOARD OF COUNTY
24 COMMISSIONERS OF COLUMBIA COUNTY, FLORIDA, that:

25 **Section 1. Amendments.**

26 Chapter 74 of the Code of Ordinances of Columbia County, Florida, is hereby amended to add
27 Article V which shall read as follows:

28 **ARTICLE V. - NOISE CONTROL**

29 **Sec. 74-100. - Purpose.**

1 This article is enacted to protect, preserve, and
2 promote the health, safety, welfare, peace, and
3 quiet of the citizens of the county through the
4 reduction, control, and prevention of loud and
5 raucous noise, or any noise which unreasonably
6 disturbs, injures, or endangers the comfort,
7 repose, health, peace, or safety of reasonable
8 persons of ordinary sensitivity.

9 **Sec. 74-101. - Findings.**

10 (a) Loud and raucous noise degrades the
11 environment of the county to a degree that:

12 1. Is harmful to the health, welfare, and
13 safety of its inhabitants and visitors;

14 2. Interferes with the comfortable
15 enjoyment of life and property;

16 3. Interferes with the well-being,
17 tranquility, and privacy of the home;
18 and

19 4. Both causes and aggravates health
20 problems.

21 (b) Both the effective control and the
22 elimination of loud and raucous noise are
23 essential to the health and welfare of
24 Columbia County's inhabitants and visitors,

1 and to the conduct of the normal pursuits of
2 life, including recreation, work, and
3 communication.

4 (c) The use of sound amplification equipment
5 creates loud and raucous noise that may, in
6 a particular manner and at a particular time
7 and place, substantially and unreasonably
8 invade the privacy, peace, and freedom of
9 inhabitants of, and visitors to the county.

10 (d) Certain short-term easing of noise
11 restrictions is essential to allow the
12 construction and maintenance of structures,
13 infrastructure, and other elements necessary
14 for the physical and commercial vitality of
15 the county.

16 **Sec. 74-102. - Scope.**

17 This article applies to the control of all sound
18 originating within the jurisdictional limits of the
19 county lying outside the municipal limits of the
20 City of Lake City.

21 **Sec. 74-103. - Definitions.**

22 The following words, terms, and phrases, when used
23 in this article, shall have the meanings ascribed
24 to them in this section, except where the context
25 clearly indicates a different meaning:

- 1 (a) Emergency means any occurrence or set of
2 circumstances involving actual or imminent
3 physical trauma or property damage demanding
4 immediate attention.
- 5 (b) Emergency work means any work performed for
6 the purpose of preventing or alleviating
7 physical trauma or property damage, whether
8 actually caused or threatened by an
9 emergency, or work by private or public
10 utilities when restoring utility service.
- 11 (c) Noise sensitive area includes, but is not
12 limited to, a posted area where a school,
13 hospital, nursing home, church, court,
14 public library, or similar institution is
15 located.
- 16 (d) Public right-of-way means any street,
17 avenue, boulevard, highway, sidewalk, alley,
18 or similar place normally accessible to the
19 public which is owned or controlled by a
20 government entity.
- 21 (e) Public space means any real property or
22 structures on real property, owned by a
23 government entity and normally accessible to
24 the public, including, but not limited to,
25 parks and recreational areas.

1 (f) Residential area means any real property
2 which contains a structure or building in
3 which one or more persons reside, provided
4 that the structure or building is properly
5 zoned, or is legally nonconforming, for
6 residential use in accordance with the terms
7 and maps of the county's zoning articles.

8 **Sec. 74-104. - General prohibition.**

9 (a) No person shall make, continue, or cause to
10 be made or continued:

- 11 1. Any unreasonably loud or raucous noise;
- 12 2. Any noise which unreasonably disturbs,
13 injures, or endangers the comfort, repose,
14 health, peace, or safety of reasonable
15 persons of ordinary sensitivity, within the
16 unincorporated areas of the county; or
- 17 3. Any noise which is so harsh, prolonged,
18 unnatural, or unusual in time or place as to
19 occasion unreasonable discomfort to any
20 persons within the neighborhood from which
21 said noises emanate, or as to unreasonably
22 interfere with the peace and comfort of
23 neighbors or their guests, or operators or
24 customers in places of business, or as to

1 detrimentally or adversely affect such
2 residences or places of business.

3 (b) Factors for determining whether a sound is
4 unreasonably loud and raucous include, but
5 are not limited to, the following:

6 1. The proximity of the sound to sleeping
7 facilities, whether residential or
8 commercial;

9 2. The land use, nature, and zoning of the area
10 from which the sound emanates and the area
11 where it is received or perceived;

12 3. The time of day or night the sound occurs;

13 4. The duration of the sound; and

14 5. Whether the sound is recurrent,
15 intermittent, or constant.

16 **Sec. 74-105. - Noises prohibited.**

17 The following acts are declared to be *per se*
18 violations of this article. This enumeration does
19 not constitute an exclusive list:

20 (a) Unreasonable noise. The unreasonable
21 making of, or knowingly and unreasonably
22 permitting to be made, any unreasonably
23 loud, boisterous, or unusual noise,

disturbance, commotion, or vibration in
any boarding facility, dwelling, place of
business or other structure, or upon any
public street, park, or other place or
building. The ordinary and usual sounds,
noises, commotion, or vibration incidental
to the operation of these places when
conducted in accordance with the usual
standards of practice and in a manner
which will not unreasonably disturb the
peace and comfort of adjacent residences
or which will not detrimentally affect the
operators of adjacent places of business
are exempted from this provision.

(b) Vehicle horns, signaling devices, and
similar devices. The sounding of any horn,
signaling device, or other similar device,
on any automobile, motorcycle, or other
vehicle on any right-of-way or in any
public space of the county for more than
ten consecutive seconds. The sounding of
any horn, signaling device, or other
similar device, as a danger warning is
exempt from this prohibition.

(c) Nonemergency signaling devices. Sounding
or permitting sounding of any amplified

1 signal from any bell, chime, siren,
2 whistle or similar device, intended
3 primarily for non-emergency purposes, from
4 any place for more than ten consecutive
5 seconds in any hourly period. The
6 reasonable sounding of such devices by
7 houses of religious worship, ice cream
8 trucks, seasonal contribution solicitors,
9 or by law enforcement for traffic control
10 purposes are exempt from the operation of
11 this provision.

12 (d) Emergency signaling devices. The
13 intentional sounding or permitting the
14 sounding outdoors of any emergency
15 signaling device including fire, burglar,
16 civil defense alarm, siren, whistle, or
17 similar emergency signaling device, except
18 in any emergency or except as provided in
19 subsections (d)1. and 2. of this section.

20 1. Testing of an emergency signaling
21 device shall occur between 7:00 a.m.
22 and 8:00 p.m. Any testing shall use
23 only the minimum cycle test time. In no
24 case shall such test time exceed five
25 minutes. Testing of the emergency

1 signaling system shall not occur more
2 than once in each calendar month.

3 2. Sounding or permitting the sounding of
4 any exterior burglar or fire alarm or
5 any motor vehicle burglar alarm, shall
6 terminate within 15 minutes of
7 activation unless an emergency exists.
8 If a false or accidental activation of
9 an alarm occurs more than twice in a
10 calendar month, the owner or person
11 responsible for the alarm shall be in
12 violation of this article.

13 (e) Radios, televisions, boom boxes,
14 phonographs, stereos, musical instruments,
15 and similar devices. The use or operation
16 of a radio, television, boom box, stereo,
17 musical instrument, or similar device that
18 produces or reproduces sound in a manner
19 that is plainly audible to any person
20 other than the player or operator of the
21 device, and those who are voluntarily
22 listening to the sound, and which
23 unreasonably disturbs the peace, quiet,
24 and comfort of neighbors and passersby, or
25 is plainly audible at a distance of 50
26 feet from any person in a commercial,

industrial area, or public space. The use
or operation of a radio, television, boom
box, stereo, musical instrument, or
similar device that produces or reproduces
sound in a manner that is plainly audible
to any person other than the player or
operator of the device, and those who are
voluntarily listening to the sound, and
unreasonably disturbs the peace, quiet,
and comfort of neighbors in residential or
noise-sensitive areas, including
multifamily or single-family dwellings.

(f) Loudspeakers, amplifiers, public address
systems, and similar devices. The
unreasonably loud and raucous use or
operation of a loudspeaker, amplifier,
public address system, or other device for
producing or reproducing sound between the
hours of 10:00 p.m. and 7:00 a.m. on
weekdays, and 10:00 p.m. and 10:00 a.m. on
weekends and holidays in the following
areas:

1. Within or adjacent to residential or
noise-sensitive areas; and
2. Within public space if the sound is
plainly audible across the real

1 property line of the public space from
2 which the sound emanates and is
3 unreasonably loud and raucous. This
4 shall not apply to any public
5 performance, gathering, or parade for
6 which a permit has been obtained from a
7 governmental agency with jurisdiction.

8 (g) Yelling, shouting, and similar activities.
9 Yelling, shouting, hooting, whistling, or
10 singing in residential or noise-sensitive
11 areas or in public places between the
12 hours of 10:00 p.m. and 7:00 a.m. or at
13 any time or place so as to unreasonably
14 disturb the quiet, comfort, or repose of
15 reasonable persons of ordinary
16 sensitivities.

17 (h) Animals and birds. Unreasonably loud and
18 raucous noise emitted by an animal or bird
19 for which a person is responsible. A
20 person is responsible for an animal if the
21 person owns, controls, or otherwise cares
22 for the animal or bird. Sounds made by
23 animals or birds in animal shelters,
24 kennels, veterinary hospitals, pet shops,
25 or pet kennels licensed under and in
26 compliance with any applicable licensing

1 and permitting provisions are exempt from
2 this subsection.

3 (i) Loading or unloading merchandise,
4 materials, equipment. The creation of
5 unreasonably loud, raucous, and excessive
6 noise in connection with the loading or
7 unloading of any vehicle at a place of
8 business or residence other than between
9 the hours of 7:00 a.m. and 8:00 p.m. on
10 weekdays and Saturdays and between 9:00
11 a.m. and 5:00 p.m. on Sundays.

12 (j) Construction or repair of residential
13 buildings, excavation of streets and
14 highways. The construction, demolition,
15 alteration or repair of any building or
16 the excavation of streets and highways
17 other than between the hours of 7:00 a.m.
18 and 8:00 p.m. on weekdays and Saturdays
19 and between 9:00 a.m. and 5:00 p.m. on
20 Sundays. This prohibition does not apply
21 to the delivery and installation of
22 concrete and other materials associated
23 with residential slab installation. In
24 cases of emergency, construction or repair
25 noises are exempt from this provision.

1 (k) Noise sensitive areas; schools, courts,
2 churches, hospitals, and similar
3 institutions. The creation of any
4 unreasonably loud and raucous noise
5 adjacent to any noise-sensitive area while
6 it is in use, which unreasonably
7 interferes with the workings of the
8 institution or which disturbs the persons
9 in these institutions; provided that
10 conspicuous signs delineating the
11 boundaries of the noise-sensitive area are
12 displayed in the streets surrounding the
13 noise-sensitive area.

14 (l) Blowers and similar devices. In
15 residential or noise-sensitive areas,
16 between the hours of 8:00 p.m. and 7:00
17 a.m., the operation of any noise-creating
18 blower, power fan, or any internal
19 combustion engine, the operation of which
20 causes noise due to the explosion of
21 operating gases or fluids, provided that
22 the noise is unreasonably loud and raucous
23 and can be heard across the property line
24 of the property from which it emanates.

25 (m) Commercial establishments adjacent to
26 residential property. Unreasonably loud

1 and raucous noise from the premises of any
2 commercial establishment, including any
3 outdoor area which is part of or under the
4 control of the establishment, between the
5 hours of 10:00 p.m. and 7:00 a.m. which is
6 plainly audible at a distance of five feet
7 from any residential property.

Sec. 74-106. - Exemptions.

Sounds caused by the following are exempt from the
prohibitions set out in section 74-105:

- (a) Motor vehicles on traffic ways of the
county, provided that the prohibition of
section 74-105(b) continues to apply.
- (b) Repairs of utility structures which pose a
clear and immediate danger to life,
health, or significant loss of property.
- (c) Sirens, whistles, or bells lawfully used
by emergency vehicles, or other alarm
systems used in case of fire, collision,
civil defense, police activity, or
imminent danger, provided that the
prohibition contained in section 74-105(d)
continues to apply.
- (d) The emission of sound for the purpose of
alerting persons to the existence of an

emergency or the emission of sound in the performance of emergency work.

- (e) Repairs or excavations of bridges, streets or highways by or on behalf of any local government, the state, or the federal government, between the hours of 8:00 p.m. and 7:00 a.m., when public welfare and convenience renders it impractical to perform the work between 7:00 a.m. and 8:00 p.m.
- (f) Outdoor school and playground activities. Reasonable activities conducted on public playgrounds 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, school athletic and school entertainment events.
- (g) Other outdoor events. Outdoor gatherings, concerts, public dances, shows and sporting events, and other similar outdoor events and associated noise shall be exempt from this section, provided that a temporary use permit has been obtained, if required.

- (h) Outdoor hunting or hunting sports. The discharge of firearms in the normal course of legal hunting activities or customary shooting sports such as skeet, trap, and target shooting.
- (i) Nonresidential and multifamily residential construction projects approved and permitted by the county.
- (j) Outdoor concerts and events that are subject to the county's temporary use permitting requirements, and which are held on property designated for such use in the future land use map of the Columbia County Comprehensive Plan, shall be allowed to operate until 11:00 p.m. on Friday or Saturday, provided a temporary use permit has been obtained for the event.

Sec. 74-107. - Enforcement.

- (a) The county sheriff will have primary responsibility for the enforcement of the noise regulations contained herein. Nothing in this article shall prevent the sheriff from obtaining voluntary compliance by way of warning, notice, or education.

- (b) If a person's conduct would otherwise violate this article and consists of speech or communication; of a gathering with others to hear or observe speech or communication; or of a gathering with others to picket or otherwise express in a non-violent manner a position on social, economic, political, or religious questions, then the person must be ordered to, and have the opportunity to, move, disperse, or otherwise remedy the violation prior to a citation being issued.

Sec. 74-108. - Penalties.

- (a) A person who violates a provision of this article is guilty of a civil infraction which is punishable by a fine not to exceed \$500.00.
- (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.

Section 2. Conflicts.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section 3. Severability

If any word , phrase , clause, section , 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 force and effect.

Section 4. Effective Date.

This ordinance shall have effect upon becoming law.

DULY PASSED AND ADOPTED BY the Board of County Commissioners of Columbia County, Florida, this ____ day of ____, 2020.

BOARD OF COUNTY COMMISSIONERS
COLUMBIA COUNTY, FLORIDA

TOBY WITT, Chair

Approved as to form and legality:

Joel F. Foreman, County Attorney

ATTEST: _____
P. DeWitt Cason, Clerk of Court