

ORDINANCE NO. 2010- A05

AN ORDINANCE OF CITRUS COUNTY, FLORIDA AMENDING PART II, CHAPTER 21 ENTITLED NOISE, VIBRATION AND AIR POLLUTION ORDINANCE OF THE CITRUS COUNTY CODE PERTAINING TO THE ABATEMENT OF EXCESSIVE NOISE, VIBRATION AND AIR POLLUTION WITHIN UNINCORPORATED CITRUS COUNTY BY AMENDING ARTICLE I ENTITLED IN GENERAL OF CHAPTER 21 BY AMENDING SECTION 21-10 ENTITLED PURPOSES AND GOALS; BY AMENDING SECTION 21-11 ENTITLED DEFINITIONS; BY AMENDING ARTICLE II ENTITLED NOISE, BY AMENDING 21-20 ENTITLED PROHIBITION; BY DELETING SECTION 21-21 ENTITLED TERMINOLOGY; BY RENUMBERING SUBSECTION PARAGRAPHS IN CONSECUTIVE ORDER; BY AMENDING SECTION 21-25 ENTITLED NOISE EXPOSURE; BY AMENDING SECTION 21-27 ENTITLED SPECIFIC NOISE PROHIBITIONS; BY AMENDING SECTION 21-28 ENTITLED REGULATION ON MOTOR VEHICLES; BY AMENDING SECTION 21-30 ENTITLED SPECIAL EXCEPTON; BY AMENDING SECTION 21-31 ENTITLED VARIANCE; BY AMENDING SECTION 21-33 ENTITLED ENFORCEMENT; AMENDING ARTICLE III ENTITLED VIBRATION, BY RENUMBERING SUBSECTION PARAGRAPHS IN CONSECUTIVE ORDER; BY PROVIDING FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF CITRUS COUNTY, AS FOLLOWS:

SECTION 1. Part II, Chapter 21 of the Citrus County Code of Ordinances is hereby amended and reads as follows:

ARTICLE I. IN GENERAL

Secs. 21-1--21-9. Reserved.

Sec. 21-10. Purposes and goals:

The Board of County Commissioners hereby finds that excessive and unnecessary noise; vibration and air pollution interferes with the comfort of the public and the enjoyment of private property, and impairs the economic welfare of adjoining properties. The intent of this section is to protect the health, safety and welfare, and to protect the aesthetic and property values of properties within unincorporated Citrus County by providing for abatement of such conditions.

(Ord. No. 2005-05, § II, 4-12-05)

Sec. 21-11. Definitions:

For the purposes of this section the following words, terms and phrases shall have the meanings ascribed to them as follows, except where otherwise expressed herein or the context clearly indicates a different meaning:

A-weighted sound level shall mean the sound pressure level in decibels as measured on a sound level meter using the A-weighted network. This network best simulates that of human hearing.

ANSI shall mean American National Standards Institute or its successor.

Daytime shall mean the hours between 7:00 a.m. and 10:00 p.m. of the same day.

Decibel (dBA) shall mean a unit of measuring the intensity of a sound, the mathematical formula for which is expressed as the volume of a sound which is equal to ten times the logarithm of the ratio of the intensity of the sound to the intensity of a specified standard sound.

Emergency shall mean any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

Emergency work shall mean any work performed for the purpose of preventing or alleviating physical trauma or property damage threatened or caused by an existing or imminent peril.

Enforcement agent shall mean any employee of Citrus County appropriately designated as a Code Compliance Officer or an agent of the Citrus County Sheriff's Office.

L10 shall mean a measurement which represents the noise level exceeded ten percent of the time.

Land use district shall mean any of the several designated categories in the Citrus County Land Development Code, as may be amended from time to time, which can be divided into five general uses, including residential government-owned building or property/institutional/recreational, commercial or business, industrial or manufacturing, and agricultural.

Motor vehicle shall mean any vehicle defines as a "motor vehicle" by F.S. § 320.01(1).

Multiple-family dwelling unit shall mean any apartment, condominium, townhouse, duplex or other multiple-dwelling unit containing two or more living units within a single building.

Nighttime shall mean the hours between 10:00 p.m. and 7:00 a.m. of the next day.

Noise shall mean any sound that is unwanted or which causes or tends to cause an adverse effect on humans.

Noise level shall mean the sound pressure level as measured in dB(A) by a sound level meter.

Noise sensitive zone shall mean a quiet zone where serenity and quiet are of extraordinary significance, which is open or in session, and which is demarcated by conspicuous signage identifying it as a noise-sensitive or quiet zone. Noise-sensitive zones may include hospitals, nursing homes, schools, courts, public libraries, houses of worship, and other areas defined as such pursuant to resolution adopted by the Board of County Commissioners or other governmental agency.

Operator shall mean any employee of Citrus County appropriately designated as Code Compliance Officer or any agent of the Citrus County Sheriff's Office charged with the responsibility of taking noise measurements provided herein.

Person shall mean any individual, association, firm, sole proprietorship, partnership, corporation, unincorporated association or any other entity.

Plainly audible shall mean clearly or understandably loud enough to be heard through perception of the human ear. In such cases the location of the source of the noise and the type of the noise being generated can be easily described.

Real property line shall mean an imaginary line along the surface, and its vertical plane extension, which separates the real property owned, rented or leased by one person from that owned, rented or leased by another person, excluding intra-building real property divisions.

Reasonable time shall mean such length of time as may fairly, properly and reasonably be allowed or required to eliminate or abate a noise found to be in violation of this chapter, after warning has been issued. The duration of time shall be dependent upon the source of the noise and what action can be taken to eliminate the noise causing said violation.

Residential areas shall mean recorded and unrecorded subdivisions and those areas in which there is a concentration of residential dwelling units.

Sound shall mean an oscillation in pressure, stress, particle displacement, particle velocity or other physical parameter, in a medium with internal forces. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

Sound level shall mean the sound pressure level obtained by the use of a sound level meter using weighting A, B or C as specified in ANSI S1.4-1971, or successor publications. If the weighting employed is not indicated, the A-weighting shall apply.

Sound level meter shall mean an instrument including a microphone, an amplifier, and output meter, and frequency weighting networks for the measurement of noise and sound levels in a specified manner.

Sound pressure shall mean the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by the presence of sound energy.

Sound pressure level shall mean in decibels of sound, 20 times the logarithm to the base 10 of the ratio of the pressure of the sound to the reference pressure. The reference is 0.0002 microbar.

Total noise shall mean the all-encompassing noise associated with a given environment, being usually composite of sound from many sources near and far.

(Ord. No. 2005-05, § II, 4-12-05)

Sec. 21-12. Remedies:

In addition to any remedy provided for in this chapter, the county may enforce the provisions herein by any other lawful means.

(Ord. No. 2005-05, § II, 4-12-05; Ord. No. 2007-A22, § 1, 8-7-07)

ARTICLE II. NOISE

Sec. 21-20. Prohibition:

It shall be a violation of this article for any person to make, cause, or allow the making of any noise or sound within the unincorporated area of Citrus County that exceeds the noise levels limits as set forth in this article.

(Ord. No. 2005-05, § III, 4-12-05)

Sec. 21-21. General standards:

- (a) Noise generated across real property lines or interior noise within multiple-family dwelling units shall conform to the sound level limits as set forth in Tables I and II, respectively, of section 21-22. The minimum measurement period shall be ten minutes. Sound shall be measured pursuant to section 21-25. Exceeding the standard more than ten percent of the measuring period shall constitute a violation.
- (b) Maximum instantaneous sound levels shall conform to the sound level limits as set forth in Table III of section 21-22. The minimum measurement period shall be ten minutes. Sound shall be measured pursuant to section 21-25. A single "instantaneous" occurrence above the maximum sound level shall constitute a violation.

(Ord. No. 2005-05, § III, 4-12-05; Ord. No. 2007-A22, § 2, 8-7-07)

Sec. 21-22. Sound level limits:

- (a) *Noise generated across real property lines.* The noise from any activity or from any permissible use of property within the applicable land use district classifications of

Citrus County shall be deemed a violation if the total noise level as measured on the A-scale due to both ambient noise, and the alleged source of the offensive noise, exceeds the noise levels which are prescribed in Table I, the measurement of which is based upon decibels. All such measurements as well as the method employed shall be consistent with section 21-25, and shall represent the A-weighted sound pressure level which is exceeded ten percent of the time (L10) during the observation period.

Table I

TABLE INSET:

Receiving Land Use District	Time	Sound Level Limit dB(A)
Residential	Daytime	60
	Nighttime	55
Government-owned buildings or property, institutional or recreational	Daytime	55
	Nighttime	50
Commercial or business	Daytime	65
	Nighttime	60
Industrial or manufacturing	Daytime	75
	Nighttime	75
Agricultural	Daytime	75
	Nighttime	75

- (b) *Interior noise within multiple-family dwelling units.* Notwithstanding any other provisions of this chapter, it shall be unlawful for any person to create, maintain or cause to be maintained any sound for any period of time within the interior of any multiple-family dwelling unit which causes the noise level to exceed those limits prescribed in Table II. All such measurements as well as the method employed shall be consistent with section 21-25.

Table II

TABLE INSET:

Multiple-Family Dwelling Units	Allowable Interior Sound Level Limit dB(A)
Daytime	55
Nighttime	45

- (c) *Maximum instantaneous sound level.* The noise from any activity or from any permissible use of property within the applicable land use district classifications of

Citrus County shall be deemed a violation if the noise level exceeds the limits set forth in Table III at any time during the measurement period. The minimum measurement period shall be ten minutes. Sound shall be measured pursuant to section 21-25.

Table III

TABLE INSET:

Receiving Land Use District	Time	Sound Level Limit dB(A)
Residential	Daytime	70
	Nighttime	60
Government-owned buildings or property, institutional or recreational	Daytime	65
	Nighttime	55
Commercial or business	Daytime	75
	Nighttime	65
Industrial or manufacturing	Daytime	85
	Nighttime	85
Agricultural	Daytime	85
	Nighttime	85
Multiple-family dwelling units	Daytime	60
	Nighttime	50

(Ord. No. 2005-05, § III, 4-12-05; Ord. No. 2007-A22, § 3, 8-7-07)

Sec. 21-23. Noise sensitive zones:

It shall be a violation of this article to create, maintain or cause to be maintained any sound within or adjacent to any noise sensitive zone so as to exceed 55 dB(A) at any time when measured at a distance of at least 25 feet from the sound source, provided that conspicuous signs are displayed indicating the presence of the zone to read "Quiet Zone."

(Ord. No. 2005-05, § III, 4-12-05)

Sec. 21-254. Noise exposure (OSHA Limits):

The lawful operation of any loudspeaker or other source of sound in any place of public entertainment that exceeds levels shown in Table IV at any point when normally occupied by a customer shall require the placement of a conspicuous and legible sign as

follows: "WARNING. SOUND LEVELS WITHIN MAY CAUSE PERMANENT HEARING IMPAIRMENT."

Table IV

TABLE INSET:

Duration Per Day Continuous Hours	Noise Level dB(A)
8 hours	90
6 hours	92
4 hours	95
3 hours	97
2 hours	100
1 1/2 hours	102
1 hour	105
1/2 hour	110
1/4 hour or less	115

(Ord. No. 2005-05, § III, 4-12-05)

Sec. 21-25. Measurement of sound:

- (a) The measurement of sound or noise shall be made with a sound level meter meeting the standards prescribed by the American National Standards Institute (ANSI), S1.4 American National Standard Specifications for Sound Level Meters, or successor publications. The instruments shall be maintained in calibration and good working order. A calibration check shall be made of the system at the time of any noise measurement, both before and after the measurement is taken.
- (b) Measurements shall be taken so as to provide a proper representation of the noise source. The microphone during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. No individual other than the operator shall be within ten feet of the sound level meter during the sample period. A windscreen for the microphone shall be used at all times.
- (c) The sound level meter shall be of at least two ANSI requirements. The sound level meter shall utilize the A-weighted network when measurements are taken. The microphone shall be oriented in accordance with instrument manufacturer's instructions.
- (d) The measurement shall be made at the nearest adjacent real property line from the property on which the noise source is located for outside measurements. Such 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. For inside

measurements, concerning multifamily dwelling units, measurements shall be at least three feet from any wall, ceiling or partition.

- (e) All noise measurements provided for in this chapter will be made by designated enforcement agents of Citrus County who are qualified to operate the apparatus used to take the measurements as provided for in this article.
- (f) The operator conducting noise-measurement tests shall document all noise-measurement results in a written record. Said record shall include the following:
 - (1) The instrumentation used, including name, make type and serial number.
 - (2) Date of last laboratory calibration.
 - (3) On-site calibration verification before and after each series of measurements.
 - (4) Name and location of the measuring area.
 - (5) A detailed sketch of the measuring area.
 - (6) Time and date of measurements.
 - (7) Names of observers.
 - (8) General weather conditions.

(Ord. No. 2005-05, § III, 4-12-05)

Sec. 21-26. Specific noise prohibitions:

In addition to those general standards set forth in section 21-21, and unless otherwise exempted in this article, the following acts, and the causing thereof, are declared to be a violation of this section:

- (a) *Horns and signal devices.* The sounding of any horn or audible signaling device of a motor vehicle, engine, machine, or stationary boiler continuously or intermittently for a period in excess of 60 seconds, except as a danger or emergency warning.
- (b) *Radios, televisions, electronic audio equipment, musical instruments, and similar devices.*
 - 1. The use, operation or playing of any radio, television, phonograph, stereo set, tape player, sound amplifier, musical instrument or similar device which produces or reproduces sound which exceeds the permitted levels as prescribed in Table 1.

2. The operation or playing of any radio, musical instrument, or similar device which produces sound on the public right-of-way which exceeds the permitted levels as prescribed in Table 1.
- (c) *Loudspeakers and devices for advertising.*
1. The use, operation, or playing of any loudspeaker system, sound amplifier or other similar device which produces or reproduces sound which is cast or emitted upon public rights-of-way for the purpose of commercial advertising or for attracting the attention of the public to any building, structure, vehicle or activity, which is being carried on thereon.
 2. The use, operation, or playing of any loudspeaker system, sound amplifier or other similar device between the hours of 10:00 p.m. and 7:00 a.m. the following day in such a manner so as to cause a noise disturbance across a residential real property boundary. This section shall not apply to public school activities.
- (d) *Explosives, firearms or similar devices.* Notwithstanding any other provision, the use or firing of explosives, firearms or similar devices in such a manner as to create a noise disturbance within a noise sensitive zone, at or in government-owned buildings or property, or public right-of-way.
- (e) *Loading and unloading.* The loading, unloading, closing or other handling of boxes, crates, containers, building materials, or similar objects between the hours of 10:00 p.m. and 7:00 a.m. the following day so as to cause a noise disturbance across a residential real property boundary.
- (f) *Construction and demolition activity.* The operation of any equipment used in construction work, building, excavation, grading, pile driving, pneumatic hammering, demolition, dredging, building alteration or repair work between the hours of 10:00 p.m. and 7:00 a.m. of the next day, except for emergency work.
- (g) *Fixed mechanical equipment.* The use or operation of any noise-creating air conditioner, heater, compressor unit, power fan or blower, fixed electrical motor or engine which causes excessive and unnecessary noise, unless such mechanical equipment is functioning in accord with the manufacturers' specifications and with all manufacturers' mufflers and noise reducing equipment in proper operating condition.
- (h) *Portable mechanical equipment and power tools.* The use or operation of any power tools or portable mechanical equipment, including a power saw, sander, drill, grinder, lawn or garden tool, or similar device, used in residential areas between the hours of 10:00 p.m. and 7:00 a.m. the following day so as to cause a noise disturbance across a residential real property boundary.
- (i) *Vehicle and motorboat repair and testing in residential areas.* The repairing, rebuilding or testing of any motor vehicle or motorboat within any residential areas between the hours of 10:00 p.m. and 7:00 a.m. the following day so as to cause a noise disturbance across a residential real property boundary.

- (j) *Refuse collection.* The collection of refuse with a refuse collection vehicle between the hours of 7:00 p.m. and 6:00 a.m. the following day in a residential or noise sensitive zone.
- (k) *Testing of emergency signaling device.*
 1. The intentional sounding or permitting the sounding of any fire, burglar, or civil defense alarm, siren, whistle, or similar stationary emergency signaling device between the hours of 10:00 p.m. and 7:00 a.m. the following day.
 2. Any testing shall use a minimum cycle test time. In no case shall such test exceed 60 seconds.
 3. Testing of a complete emergency signaling system, including functioning of the signaling device and personnel response to the signaling device shall not occur between the hours of 10:00 p.m. and 7:00 a.m. of the following day. The testing of a complete emergency signaling system shall be exempt from the time limit specified in subsection (b) above.
- (l) *Fixed building or vehicular alarms.* Except as permitted by 21-276(11) or exempted by subsection 21-29(1) and (2), the use of fixed building or vehicular alarms unnecessarily or for an unreasonable period of time. Specifically, when sounded for false alarms or sounded for a period in excess of 15 minutes.
- (m) *Electronically amplified signals.* The sounding of any electronically amplified signal from any stationary bell, chime, siren, whistle or similar device intended primarily for non-emergency purposes from any place for more than ten seconds in any hourly period.
- (n) *Licensed game hunting activities.* Licensed game hunting activities or other similar firearm activities, to include practice, during other than lawful hunting hours.
- (o) *Special exemption or variance.* A violation of any requirement or condition of a special exception or variance granted pursuant to section 21-29 of this article.

(Ord. No. 2005-05, § III, 4-12-05; Ord. No. 2007-A22, § 4, 8-7-07)

Sec. 21-27. Regulations on motor vehicles:

- (a) *Motor vehicles operating on public right-of-way.* Motor vehicles on a public right-of-way are regulated as set forth in Florida Statutes. Unless otherwise set forth within this article, sound level limits for or excessive sound to a receiving land use district shall not apply.
- (b) *Competitive racing events.* No person shall construct, alter or expand any installation or facility for competitive racing events without first providing documentation and assurance for compliance with this article, and without first receiving approval from the Board of County Commissioners. The documentation and assurance above shall

include, but not be limited to, the use of sound barriers, use of muffler devices, control of direction and volume of loud speakers, and provisions for monitoring.

(Ord. No. 2005-05, § III, 4-12-05)

Sec. 21-28. Exemptions:

The following uses and activities shall be exempt from the noise level regulations of this article:

- (a) Noises resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency.
- (b) Noises of safety signals, warning devices, and emergency pressure relief valves, when utilized for their intended use.
- (c) Noises resulting from emergency work as defined in section 21-11.
- (d) Construction operations for which building permits have been issued, or construction operations not requiring permits, providing all equipment is operated in accord with the manufacturers' specifications and with all standard equipment, manufacturers' mufflers and noise reducing equipment in use in proper operating condition. This exception shall not apply between the hours of 10:00 p.m. and 7:00 a.m. of the following day.
- (e) Air conditioners and lawn mowers are exempt from provisions of this article when functioning in accord with the manufacturers' specifications and with all manufacturers' mufflers and noise reducing equipment in use and in proper operating conditions.
- (f) The unamplified human voice.
- (g) Unamplified crowd noises resulting from activities such as those planned by student or community groups, or racing/sporting events.
- (h) Noises from motor vehicles engaged in a professional or amateur sanctioned, competitive sports event for which admission or an entry fee is charged, including practice or time trials for such event, if otherwise permitted hereunder.
- (i) Noises consistent with cultural, historical, or traditional observances, holidays and ceremonies. This shall include church activities, noncommercial public speaking and officially authorized public assembly activities in or at a government-owned building or property, or on public right-of-way such as school activities, carnivals, festivals, fairs, sporting events, parades, supervised fireworks displays or the like.
- (j) Licensed game hunting activities or other similar firearm activities, to included practice, on property where such activities are authorized during lawful hunting hours.

- (k) Reasonable operation of unamplified church bells or chimes when used for traditional religious purposes.
- (l) The construction, emergency or routine maintenance of public service utilities.
- (m) Approved mosquito fogging operations and aquatic plant control.
- (n) All noises from railway and airport activities in accordance to federal, state and local laws.
- (o) The supervised public display of fireworks by fair associations, amusement parks, and other organization or groups of individuals or other lawful use of fireworks.
- (p) Refuse collection vehicles in areas other than residential areas and quiet zones.
- (q) Scheduled road construction and maintenance by city, county or state agencies and their authorized contractors.
- (r) Motor vehicles operating on a public right-of-way subject to F.S. § 316.272, and applicable federal criteria.
- (s) Noises from all equipment tests required by law, and not otherwise regulated herein.
- (t) Farming and forestry operations and incidental activities including but not limited to sounds created by equipment, domestic livestock and production and marketing activities on lands designated agricultural, rural residential and conservation.
- (u) Any other noise resulting from activities of a temporary duration permitted by law and for which a special permit or variance is obtained pursuant to sections 21-30 or 21-31, provided the activities shall be in accordance with the conditions and limitations stated therein.

(Ord. No. 2005-05, § III, 4-12-05; Ord. No. 2007-A22, § 5, 8-7-07)

Sec. 21-29. Special exception:

- (a) A special exception to the noise standards set forth in this article may be issued for a single temporary public or private special event or use upon written request to the County Administrator or his duly authorized representative within a reasonable timeframe prior to the date for which the relief is requested.
 - (1) Any waiver granted by the County Administrator hereunder must be in writing and shall contain all conditions upon which said permit shall be effective.
 - (2) The County Administrator may prescribe any reasonable conditions or requirements deemed necessary to minimize the adverse effects upon the community or the surrounding neighborhood, including but not limited to the use of mufflers, screens or other sound attenuating devices.

- (3) A special exception granted pursuant to this subsection shall be for a specified period, but shall not exceed 15 days.
 - (4) A copy of the request shall be forwarded to the Citrus County Sheriff's Office. Recommendations of such agency shall be considered in establishing the conditions required herein.
- (b) Any person desiring relief from the provisions of this article not provided for by subsection (a) above may request and receive a special exception in the same manner as set forth in subsection (a) for the following circumstances:
- (1) Additional time is necessary for the applicant to alter or modify the activity or noise source in order to comply with this article.
 - (2) The activity, operation or noise source will be of a temporary duration and cannot be done in a manner that would comply with the provisions of this article.
 - (3) No reasonable alternative is available to the applicant.
 - (4) A special exception granted pursuant to this subsection shall be for a specified period, but shall not exceed 60 days.
- (c) Applicants for special exceptions granted pursuant to this section shall comply with all reasonable conditions and requirements deemed necessary by the County Administrator including effective date, time of activity, location and equipment limitations, and sound attenuation devices.
- (d) Waivers for all other uses shall only be issued as specified in section 21-31.

(Ord. No. 2005-05, § III, 4-12-05; Ord. No. 2007-A22, § 6, 8-7-07)

Sec. 21-30. Variance:

- (a) The Planning and Development Review Board (PDRB) may grant a variance from any provision to the noise standards set forth in this article.
- (b) Any person seeking a variance shall submit an application to the Department of Development Services.
- (c) Notice and hearing shall be pursuant to Citrus County Land Development Code § 2610.
- (d) At the hearing, the applicant may submit any relevant evidence or testimony. In deciding whether to grant or deny the application, the PDRB shall balance the hardship with will result to the applicant, the community and other persons if the variance is not granted, versus the adverse impact on the health, safety, and general welfare of persons if the variance is granted.

- (e) If the PDRB's decision is to grant the application, it shall set forth the terms and conditions of the variance, including the effective date of the variance, the period of the variance, the time of day the variance may be used, the location where the sound may be created or caused, and the sound limits.
- (f) If granted, a written variance, containing all terms or conditions thereof, shall be provided to the applicant. A variance shall not issue, however, until the time for filing a notice of appeal pursuant to subsection (j) hereunder has expired. If a notice of appeal is filed, the variance shall not issue unless the PDRB's decision is upheld.
- (g) A variance shall be issued for a specified time period, but shall not exceed 365 days.
- (h) In the event of noncompliance with any term or condition of the variance, the county's Code Compliance Division shall immediately notify the variance holder as required by F.S. § 162.12. Failure to eliminate the noncompliance within ten calendar days following a finding of guilt by the County's Special Master shall result in revocation of the variance. The variance holder shall be notified of such revocation in the same manner as notice of noncompliance.
- (i) Any variance applicant or property owner within 500 feet may appeal a decision of the PDRB under this section by certiorari to the circuit court as permissible by law.
- (j) Any variance holder may appeal a decision to revoke a variance pursuant to subsection (h) by certiorari to the circuit court as permissible by law.

(Ord. No. 2005-05, § III, 4-12-05; Ord. No. 2007-A22, § 7, 8-7-07; Ord. No. 2008-A04, § 9, 2-26-08)

Sec. 21-31. Valid nonconforming uses:

When a commercial or industrial use has established its use as of the effective date of this article, away from other incompatible uses, and subsequently through encroachment of development and the utilization of space for residential purposes, now finds itself adjoining a receiving land category or use which would require a reduction in noise generation, such commercial business shall not be subject to the sound level standards specified in this article. However, any type of expansion or change of uses shall not be exempt to the standards of this article. The determination of the existence of a nonconforming use shall be as provided for in the Land Development Code.

(Ord. No. 2005-05, § III, 4-12-05)

Sec. 21-32. Enforcement:

- (a) The primary responsibility for enforcement of this article shall be by the Citrus County Code Compliance Division. The Citrus County Sheriff's Office may also enforce the specific noise prohibitions set forth in section 21-26 hereof.

- (b) For the purpose of determining and classifying any noise as one which is declared unlawful and prohibited by this article, the enforcement agent shall apply the measurement techniques provided in section 21-26 to determine if the standards set forth in section 21-21 have been violated. However, a violation of this article may occur without occasion of the measurements being made if specified in section 21-26 regarding specific noise prohibitions.
- (c) The following procedures shall be followed by the enforcement agent when enforcing this article:
 - (1) The appropriate county enforcement agent shall investigate and determine if any noise is in violation of the specific noise prohibitions provided in section 21-26, or any noise level is in excess of the noise control measurement standards in section 21-22.
 - (2) Measurement techniques, when required, shall be done in accordance with section 21-26.
 - (3) If a noise level is found to be in violation of this article, the appropriate enforcement agent shall give warning to the person responsible for the sound. The warning shall advise the person of the violation and of the possible penalty if the person fails to eliminate the sound or reduce the sound so that it is within permitted limits or is not plainly audible.
 - (4) The person receiving the warning shall have a reasonable time to comply with the warning. Absent special circumstances, reasonable time is 15 minutes.
 - (5) For the purposes of this article, it is sufficient warning for all prohibited sounds if the person responsible for such sound has been warned of, or cited for, one or more offending sounds of the same type within the previous 60 days, or in the case of a business, in the time period since ownership of the business changed, whichever is less.
 - (6) If the sound is not eliminated or is not reduced to allowable limits within a reasonable time after the warning, or if the noise or sound 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 21-33.

(Ord. No. 2005-05, § III, 4-12-05; Ord. No. 2007-A22, § 8, 8-7-07)

Sec. 21-33. Citation procedures:

- (a) *Citation authorization.* Any county enforcement agent is hereby authorized to issue a citation to a person when, based upon personal investigation, the enforcement agent has reasonable cause to believe that the person has committed a violation of this article.
- (b) *Procedures.* A citation issued by an enforcement agent 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 enforcement agent.
 - (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 enforcement agent 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 an enforcement agent shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. § 775.082 or 775.083.

(Ord. No. 2005-05, § III, 4-12-05)

Sec. 21-34. Penalty schedule;

- (a) Penalties for uncontested violations shall be as set forth in Table V.

Table V

TABLE INSET:

Section	Description	Class	Penalty
21-23	Sound level limits	I	50.00
21-24	Noise sensitive zones	II	75.00
21-25	Noise exposure	III	100.00
21-27(1)--(4)	Specific noise prohibitions	I	50.00
21-28	Regulations on motor vehicles	I	50.00
21-27(15)	Violation of conditions of special exception	II	75.00

- (b) *Class I and II.* A second violation of the same class I or class II offense shall be 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.
- (c) *Class III and IV.* Second and subsequent violations of a class III or class IV offense will require a mandatory court appearance.
- (d) *Class V.* All class V violations shall require a mandatory court appearance and will be subject to the penalties imposed by the court not to exceed \$500.00.

(Ord. No. 2005-05, § III, 4-12-05; Ord. No. 2007-A22, § 9, 8-7-07)

Secs. 21-36--21-48. Reserved:

ARTICLE III. VIBRATION

Sec. 21-49. Prohibition:

It shall be a violation of this article for any person to cause, create or allow to be created any vibration within the unincorporated area of Citrus County in excess of the following levels:

- (a) 0.1 peak particle velocity at one or less Hz in any plane.
- (b) 0.2 peak particle velocity at greater than one Hz in any plane.

(Ord. No. 2005-05, § IV, 4-12-05)

Sec. 21-50. Measurement.

- (a) *Distance.* Impact vibrations shall not exceed those levels as set forth above when measured from the following locations:
 - (1) For industrial districts, at any point beyond district boundaries.
 - (2) For all other land use districts, at any point beyond the real property line of the use.
- (b) *Method.* For the purpose of measuring vibration, a three-component simultaneous measuring system recognized as standard for such purpose shall be used in determining displacement and maximum peak particle velocity. Maximum peak particle velocity shall be the maximum displacement vector sums of the three perpetual components referred to above multiplied by frequency in cycles per second. Location and timing of measurement shall be arranged insofar as possible to exclude vibrations emanating from off the premises involved, or a correction factor reasonable under the circumstances shall be applied to compensate for off-premises vibrations.

(Ord. No. 2005-05, § IV, 4-12-05)

Sec. 21-51. Mining activities.

For any mining activity within 3,000 feet of any residential area, mine operators shall be required to adopt state of the art methodology for ground vibration levels to minimize impact on neighboring residential areas.

(Ord. No. 2005-05, § IV, 4-12-05; Ord. No. 2007-A22, § 10, 8-7-07)

Secs. 21-52-21-59. Reserved.

ARTICLE IV. AIR POLLUTION

Sec. 21-60. Prohibition:

- (a) To protect and enhance the air quality of the county, all sources of air pollution shall comply with rules set forth by the United States Environmental Protection Agency, Code of Federal Regulations, Title 40, and the Florida Department of Environmental Protection (FDEP), Chapter 62-204, Florida Administrative Code. Failure to do so shall constitute a violation of this article.
- (b) No person shall operate a regulated source of air pollution without a valid permit issued by the FDEP.

(Ord. No. 2005-05, § V, 4-12-05)

Sec. 21-61. Testing:

Air pollution emissions shall be tested and results reported in accordance with techniques and methods adopted by the FDEP and submitted to the state. These tests shall be carried out under supervision of the state and at the expense of the person responsible for the source of pollution.

(Ord. No. 2005-05, § IV, 4-12-05)

SECTION 2. SEVERABILITY

If any article, section, paragraph, clause, provision or provisions of this ordinance shall be adjudged invalid, such adjudication shall apply only to the article, section, paragraph, clause, provision or provisions so adjudged, and the remainder of this ordinance shall be deemed valid and effective.

SECTION 3. INCLUSION INTO THE CODE OF ORDINANCES

It is the intent of the Board of county commissioners that the provisions of this ordinance shall become and be made part of the Citrus County Code of Ordinances and that the sections of this ordinance may be renumbered or relettered.

SECTION 4. MODIFICATION

It is the intent of the Board of County Commissioners that the provisions of this ordinance may be modified as a result of considerations that may arise during public hearings. Such modifications shall be incorporated into the final version of the ordinance adopted by the Board and filed by the Clerk to the Board.

SECTION 5. EFFECTIVE DATE

This ordinance shall take effect as provided by law.

DONE AND ADOPTED in Regular Session this 9 day of February, 2010.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF CITRUS COUNTY, FLORIDA

For
Betty Strifler
BETTY STRIFLER, CLERK

BY: *Gary Bartell*
GARY BARTELL, CHAIRMAN

APPROVED AS TO FORM FOR THE
RELiance OF CITRUS COUNTY ONLY:

[Signature]
COUNTY ATTORNEY

