

REQUEST FOR BOARD ACTION

**HENDERSON COUNTY
BOARD OF COMMISSIONERS**

MEETING DATE: October 4, 2021

SUBJECT: Mills River – Animal and Noise Enforcement

PRESENTER: Sheriff Lowell Griffin

ATTACHMENTS: Yes

1. Resolution – Animal Ordinance Enforcement
2. Resolution – Noise Ordinance Enforcement

SUMMARY OF REQUEST:

At their August 26, 2021 Meeting, the Mills River Town Council adopted two Resolutions pertaining to enforcement of ordinances within the municipality. The first Resolution adopted the County’s Animal Ordinance (Chapter 16) and requested enforcement by the County. The second Resolution requested the County enforce the Mills River Noise Ordinance within the municipality.

Sheriff Lowell Griffin has been informed of these requests. He will be present at this meeting to answer any questions the Board may have.

BOARD ACTION REQUESTED:

The Board is requested to discuss, and direct Staff accordingly.

Suggested Motion(s):

I move the Board authorize the Sheriff to enforce both the Henderson County Animal Ordinance and Mills River Noise Ordinance within the municipal limits of Mills River.



**RESOLUTION ADOPTING HENDERSON COUNTY
ANIMALS ORDINANCE**

WHEREAS, the Town of Mills River is a body politic promoting public health, safety and welfare and preventing nuisances throughout its jurisdiction;

WHEREAS, the Town of Mills River seeks to cooperate with other governing bodies to provide for the efficient enforcement of law;

WHEREAS, adopting Henderson County ordinances provides consistency throughout the county regarding animal issues;

WHEREAS, consistent laws make enforcement and public education easier for county and municipal residents, and reduces confusion regarding the jurisdiction of certain laws and prohibitions;

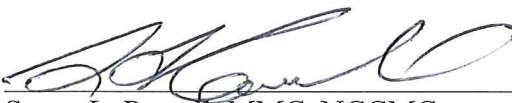
WHEREAS, common ordinances allow Henderson County and the Town of Mills River to provide better, more uniform and more efficient services to our citizens;

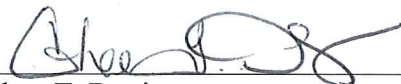
NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MILLS RIVER THAT:

1. The Town of Mills River declares its intent to adopt the Animals Ordinance Chapter 16 of the Henderson County Code of Ordinances.
2. The Town of Mills River adopts this ordinance in its entirety as written.
3. The Town of Mills River requests of the Henderson County Board of Commissioners the enforcement of this Ordinance within the municipal boundaries by Henderson County.

Approved and adopted this the 26th day of August, 2021.

ATTEST:


Susan L. Powell, MMC, NCCMC
Finance Director/Town Clerk


Chae T. Davis
Mayor





**RESOLUTION ASKING HENDERSON COUNTY SHERIFF DEPARTMENT
TO ENFORCE
THE MILLS RIVER NOISE ORDINANCE**

WHEREAS, the Town of Mills River is a body politic promoting public health, safety and welfare and preventing nuisances throughout its jurisdiction; and

WHEREAS, the Town of Mills River seeks to cooperate with other governing bodies to provide for the efficient enforcement of law; and

WHEREAS, the Town of Mills River and Henderson County have entered into an Interlocal Agreement for law enforcement services in the Town of Mills River which are provided by the Henderson County Sheriff's Department; and

WHEREAS, cooperative and consistent enforcement make public education easier for county and municipal residents, and reduces confusion regarding the jurisdiction of certain laws and prohibitions; and

WHEREAS, cooperation allows Henderson County and the Town of Mills River to provide better, more uniform and more efficient services to our citizens;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MILLS RIVER THAT:

The Town of Mills River requests of the Henderson County Board of Commissioners enforcement of the Noise Ordinance, Sections 152.21 through 152.99 of the Mills River Code of Ordinances adopted May 13, 2021, (Exhibit A) and any future amendments to this ordinance.

Approved and adopted this the 26th day of August, 2021.

ATTEST:

Susan L. Powell, MMC, NCCMC
Finance Director/Town Clerk

Chae T. Davis
Mayor



NOISE CONTROL

§ 152.21 ESTABLISHMENT OF NOISE ORDINANCE.

This subchapter shall be known as the "Noise Ordinance for the Town of Mills River."
(Ord. 2021-10, passed 5-13-2021)

§ 152.22 PROHIBITED NOISES.

(A) Disturbing noise which is perceived by a person of ordinary sensibilities as interrupting the normal peace and calm of the area.

(B) Unreasonably loud noise, which is a level of noise that is substantially incompatible with the time and location where created to the extent that it creates an actual or imminent interference with peace or good order.

(1) In determining whether a noise is unreasonably loud and disturbing, the following factors incident to such noise are to be considered:

- (a) Time of day;
- (b) Proximity to residential structures;
- (c) Whether the noise is recurrent, intermittent, or constant;
- (d) The volume and intensity;
- (e) Whether the noise has been enhanced in volume or range by any type of mechanical means;
- (f) The nature and zoning of the area;
- (g) Whether the noise is related to the normal operation of a business or other labor activity, or is the result of some use for individual purposes;
- (h) Whether the noise is subject to being controlled without unreasonable effort or expense to the creator thereof.

(C) The playing of any radio, phonograph or other musical instrument in such a manner or with such volume, particularly during the hours between 9:00 p.m. and 7:00 a.m. Sunday through Thursday and 10:00 p.m. and 7:00 a.m. Friday and Saturday, so as to annoy or disturb the quiet, comfort or repose of any persons in any dwelling, hotel or other type of residence.

(D) Using or operating a loudspeaker or other sound amplification device or system for the purpose of commercial advertising, giving instructions, information, directions, talks, addresses, lectures, or providing entertainment to any persons or assemblage of persons on any private or public property, between the hours of 9:00 p.m. and 7:00 a.m. the following day on Sunday through Thursday and between the hours of 10:00 p.m. and 7:00 a.m. the following day on Friday and Saturday is hereby prohibited.

(Ord. 2021-10, passed 5-13-2021)

§ 152.23 EXCEPTIONS.

(A) The following are exempt from the provisions of this subchapter:

(1) Any noise resulting from activities of a temporary duration permitted by law, and for which a license or permit therefor has been granted by the Town in accordance with the

Mills River Town Code. Regulations of noises emitting from operations under permit shall be according to the conditions and limits stated on the permit.

(2) Unamplified sound at street fairs, parades, or other special events permitted by the Town.

(3) Amplified sound emanating from religious institutions.

(B) This chapter shall not regulate property being actively used as a bona fide farm which is any tract of land used for dairying, the raising of agricultural products, forest products, livestock or poultry, or any other use defined as AGRICULTURE in § 154.007 of the Town Code and including facilities for the sale of such products from the premises where produced.

(Ord. 2021-10, passed 5-13-2021)

§ 152.24 PERMITS FOR AMPLIFIED SOUND.

(A) Before a person or group of persons may produce or cause to be produced amplified sound, as defined in § 152.03, a permit must be secured from the Town of Mills River.

(B) Any person or group or persons desiring a permit shall apply as provided herein and shall provide the minimum requirements listed below:

(1) Property address;

(2) Business name;

(3) Property owner name and signature;

(4) Responsible party (general manager, site manager, or similar);

(5) Contact information for all parties.

(C) All applications shall be submitted to the Town of Mills River prior to producing amplified sound. Failure to comply with this requirement shall be grounds for denying the permit.

(D) Permit holders shall agree to cooperate with the Henderson County Sheriff's Department and the Town of Mills River in enforcing the noise ordinance by having signers of the permit available at the site of the event during the entire time for which a permit has been issued and capable of assisting in enforcing the noise control ordinance. Failure of the permittee or designees to be present or to assist the Henderson County Sheriff's Department and the Town of Mills River in compliance of this subchapter will result in revocation of said permit.

(Ord. 2021-10, passed 5-13-2021)

§ 152.25 NOISE COMPLAINTS.

(A) Any person having reasonable grounds for believing any provision of this subchapter is being violated may make a report thereof to the Henderson County Sheriff's Department or the Town of Mills River, which shall investigate the alleged violation. If any such investigation reveals a violation, the investigating deputy or code enforcement officer has the authority to cause a written complaint to be made and may issue a citation for a civil penalty, and may obtain other enforcement measure as allowed in this chapter.

(B) It shall be unlawful for any person to file a false report or to provide false information to any enforcement official involving any investigation of any reported

violation of this subchapter. Any person found violating this provision shall be guilty of a Class 3 misdemeanor and shall be fined not more than \$500.

(C) It shall be unlawful for any person to repeatedly file frivolous or unfounded complaints with law enforcement in order to intimidate or harass any member of such department or any animal owner, or to otherwise hinder or interfere with any function of the department of animal control. Any person found violating this provision shall be guilty of a Class 3 misdemeanor and shall be fined not more than \$500.

(Ord. 2021-10, passed 5-13-2021)

§ 152.26 WARNINGS AND VIOLATIONS.

(A) Any producer of prohibited noise as defined in this subchapter that has been determined to be non-cooperative pursuant to this subchapter shall be subject to enhanced civil penalties.

(B) Violations shall result in the following:

(1) Upon a first violation, enforcing authority shall issue a warning.

(2) A second violation shall result in a fine not more than \$500.

(3) A third violation shall result in a fine not more than \$1,000.

(4) Subsequent and continued violations will result in a penalty of \$1,000 per day of noncompliance.

(Ord. 2021-10, passed 5-13-2021)