

ORDINANCE NO. 25-__

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MARION COUNTY, FLORIDA, CREATING CHAPTER 5, BOATS, DOCKS AND WATERWAYS, ARTICLE VI SILVER GLEN SPRINGS AND SILVER GLEN RUN TO PROVIDE FOR A NOISE SENSITIVE ZONE, PENALTIES AND ENFORCEMENT; RENUMBERING AND RENAMING SECTION 14-6.1, MARION COUNTY CODE, ENTITLED SILVER GLEN SPRINGS AND SILVER GLEN RUN, ALCOHOLIC BEVERAGES PROHIBITED, TO CHAPTER 5, ARTICLE VI, SECTION 5-70 ALCOHOLIC BEVERAGES PROHIBITED; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Silver Glen Springs is a first-magnitude spring which lies at the east edge of the Ocala National Forest and approximately two miles north of the Juniper Creek entrance; and

WHEREAS, Silver Glen Springs lies within Marion County's jurisdiction and is located on the western shore of Lake George on the St. Johns River; and

WHEREAS, there is a waterway run ("Silver Glen Run") that connects Lake George to Silver Glen Springs, located partially in Marion County; and

WHEREAS, Silver Glen Springs and Silver Glen Run provide the meeting grounds for Marion County citizens and citizens from several surrounding counties, as well as tourists from all over, who utilize Silver Glen Springs and Silver Glen Run for vacationing, boating, jet skiing, kayaking, canoeing, paddleboarding, swimming, snorkeling, lounging, celebrating and all manner of outdoor recreation and water-specific recreation; and

WHEREAS, there are an exceptionally large number of people who congregate in the Silver Glen Springs and Silver Glen Run area, some of whom utilize excessively loud and amplified sound systems or other sound devices on their vessels for entertainment; and

WHEREAS, the excessive use of amplified sound systems or other sound devices are having a negative and deleterious effect on citizens, adjacent real property owners and other users of the Silver Glen Springs and Silver Glen Run who are unable to peaceably enjoy the Silver Glen Springs and Silver Glen Run areas; and

WHEREAS, the Marion County Board of County Commissioners herein determines that there is a legitimate need to adopt regulations to control and enforce excessive, unnecessary and harmful sound, noise, and vibration levels originating from amplified sound systems or other sound devices within the Silver Glen Springs and Silver Glen Run areas; and

WHEREAS, the Marion County Board of County Commissioners hereby finds that the amendments and modifications contained herein are in the best interests of the citizens of Marion County, Florida.

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

Section 1. Legal Findings of Fact. The foregoing recitals are hereby adopted as legislative findings of the Board of County Commissioners and are ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

Section 2. Renumbering, Renaming and Amending. Section 14-6.1 of the Marion County Code, entitled *Silver Glen Springs and Silver Glen Run, alcoholic beverages prohibited*, is hereby renumbered to **Chapter 5** of the Marion County Code, *Boats, Docks and Waterways*, **Article VI**, and renamed as *Silver Glen Springs and Silver Glen Run*, and amended to read as follows (additions shown in underline text and deletions are shown in ~~strikeout-text~~):

CHAPTER 5 – BOATS, DOCKS AND WATERWAYS

~~Sec. 14-6.1.~~ **ARTICLE VI. SILVER GLEN SPRINGS AND SILVER GLEN RUN,** ~~alcoholic beverages prohibited.~~

Sec. 5-70. Alcoholic Beverages Prohibited.

- (a) *Definition.* As used in this ~~Article~~ section, unless the context clearly requires a different meaning, "Silver Glen Springs and Silver Glen Run" means the northern one-third of Silver Glen Run and all of Silver Glen Springs lying within Marion County.
- (b) *Possession of alcoholic beverages.* It shall be unlawful for any person to possess alcoholic beverages while in, on or under the waters of Silver Glen Springs and Silver Glen Run.
- (c) *Boating.* It shall be unlawful for any vessel to enter Silver Glen Springs and Silver Glen Run with alcoholic beverages aboard said vessel.
- (d) *Enforcement.* The provisions of this section may be enforced by any local, state or federal law enforcement officer, acting within his or her jurisdiction.
- (e) *Penalties.* Persons violating this section may be arrested for the violation and charged with a misdemeanor of the second degree, and upon conviction thereof shall be punishable as provided in Section 1-9, Marion County Code or Section 125.69, Florida Statutes.

Sec. 5-71. Noise Control and Enforcement.

- (a) *Definition.* The following words, terms and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:
 - (1) *Amplified sound.* As used in this section, "amplified sound" shall mean sound and sound volume that is increased by any electric, electronic, mechanical, or motor-powered means.

- (2) Noise Sensitive Zone. As used in this section, “Noise Sensitive Zone” shall mean a quiet zone where serenity and quiet are of extraordinary significance and which is demarcated by conspicuous signage identifying it as a noise-sensitive or quiet zone.
- (3) Operator. As used in this section, "operator" means:
- a. The person in charge of or in command of or in actual physical control of a vessel upon Silver Glen Springs or Silver Glen Run;
 - b. The person exercising control over or having responsibility for vessel navigation or safety while the vessel is underway upon Silver Glen Springs or Silver Glen Run; or
 - c. The person controlling or steering a vessel being towed by another vessel upon Silver Glen Springs or Silver Glen Run.
- (4) Plainly audible. As used in this section, “plainly audible” means any electronically amplified sound that can be clearly heard by an officer using his normal hearing faculties not enhanced by any device. Where distance measurements are required by this section to determine whether sound is plainly audible for purposes of this section, measurements shall be taken in accordance with the following requirements:
- a. The officer must have a direct line of sight to the location of the noise (i.e., the vessel or the speaker), so that the officer can readily identify the distance involved.
 - b. The officer need not determine the particular words or phrases being produced or the name of any song or artist producing the sound. The detection of a rhythmic bass reverberating type sound is sufficient to constitute a plainly audible sound.
- (5) Vessel. As used in this section, "vessel" is synonymous with the term “boat” and includes every description of watercraft, barge, motorboat, airboat or similar craft used or capable of being used as a means of transportation on water.
- (b) Declared Noise Sensitive Zone. Silver Glen Springs and Silver Springs Run are hereby declared a Noise Sensitive Zone. It shall be unlawful for any person to make, create, or maintain any amplified sound while in, on, or under the waters of Silver Glen Springs or Silver Glen Run. If a violation of this section occurs on a vessel, the violation shall be assessed to the operator of the vessel. The following acts shall be prohibited within the Noise Sensitive Zone:
- (1) The using, operating, or permitting to be used or operated amplified sound produced by a radio, tape player, compact disc player, portable music or video player, cellular telephone, tablet computer, laptop computer, stereo, television, musical instrument, speaker, or other mechanical or electronic sound-making device, instrument, or other machine or device used for the production, reproduction, or emission of sound which disturbs the peace; or
 - (2) The sounding of any horn or signaling device for any unnecessary or unreasonable period, and the unreasonable use of any horn or signaling device; provided, however,

that noise of safety signals, warning devices, emergency vehicles or vessels during a time of emergency, noise associated with emergency work, or any noise resulting from activities of a temporary duration permitted by law for which a license or permit has been issued by a governmental entity having jurisdiction over the area are exempt from these provisions.

(c) *Violation, Enforcement, Penalty and Remedies.*

- (1) When a violation of this section has occurred within the presence of a law enforcement officer or if the law enforcement officer has been provided with sufficient information to form a belief that a violation of this section has occurred, the operator shall be punished as follows:
 - a. For the first violation, by a warning requiring immediate elimination or abatement of the violation. The warning shall advise the operator of the violation of this section and of the possible penalty if such violation is not terminated or is repeated.
 - b. For the second violation, a non-criminal citation with a civil penalty of two hundred fifty dollars (\$250.00).
 - c. For a third and subsequent violations, a non-criminal citation with a civil penalty of five hundred dollars (\$500.00).
- (2) A violation occurs within the presence of a law enforcement officer when amplified sound is plainly audible to the law enforcement officer at a distance of twenty-five (25) feet or more from the vessel or the source of the amplified sound. Sufficient information for a law enforcement officer to form a belief includes the circumstances and facts surrounding the alleged violation, including, but not limited to, the time of day when the alleged violation occurs, the number of complaints received about the alleged violation, whether the person responsible for the alleged violation has previously been in violation of this section, and the degree of disturbance resulting from the violation.
- (3) The provisions of this section may be enforced by any local, state or federal law enforcement officer, acting within his or her jurisdiction.
- (4) Violations of this section which disturb the comfort, repose, health and peace of residents and visitors may constitute a public nuisance which may be abated by any substantially affected person through civil or other equitable relief action from any court of competent jurisdiction.

Section 3. Inclusion in the Code. It is the intent of the Board of County Commissioners of Marion County, Florida, and it is hereby provided that the provisions of this ordinance shall become and be part of the Marion County, Florida Code of Ordinances; that the sections of this Ordinance may be re-numbered or re-lettered to accomplish such intent; and that the word “ordinance” may be changed to “section,” “article,” or other appropriate designation.

Section 4. Conflicting Provisions. In the event of any conflict between any provision of this Ordinance and any provision of another section of the County Code, the provisions of this Ordinance shall govern.

Section 5. Severability. Severability is intended throughout and within the provisions of this Ordinance. If any provision, including any exception, part, phrase or term or the application thereof to any person or circumstance is held preempted or invalid by a Court of appropriate jurisdiction, the application to other persons or circumstances shall not be affected thereby, and the validity of this Ordinance in any and all other respects shall not be affected thereby. The Board of County Commissioners do not intend this Ordinance to be held inapplicable in such cases, if any, where its application would be unconstitutional as constitutionally permitted construction is intended and shall be given.

Section 6. Applicability. This Ordinance shall be applicable in the unincorporated area of Marion County, Florida.

Section 7. Ordinance Cumulative. This Ordinance shall be cumulative and in addition to any other laws or ordinances in force in Marion County.

Section 8. Effective Date. A certified copy of this Ordinance shall be filed with the Secretary of State by the Clerk within ten (10) days after enactment by the Board of County Commissioners, as provided in Section 125.66(2)(b), Florida Statutes.

DULY ADOPTED this _____.

BOARD OF COUNTY COMMISSIONERS
MARION COUNTY, FLORIDA

KATHY BRYANT, CHAIRMAN

ATTEST:

GREGORY C. HARRELL, CLERK

APPROVED AS TO FORM:

MATTHEW G. MINTER, COUNTY ATTORNEY