

**ORDINANCE NO. 06 - 2020**

**AN ORDINANCE OF THE CITY OF SEMINOLE AMENDING CHAPTER 18, ARTICLE III, TO CREATE SECTION 18-67. - EXTERIOR CONSTRUCTION NOISE, DAYS AND HOURS OF OPERATION; AMENDING CHAPTER 18, ARTICLE III, TO CREATE SECTION 18-68. – ENFORCEMENT, PENALTIES, AND CONTINUING VIOLATIONS; AMENDING CHAPTER 2, ARTICLE IV, SECTION 2-106. - DEFINITIONS; AMENDING AND RENAMING CHAPTER 2, ARTICLE IV, SECTION 2-108. – OBSTRUCTING INSPECTOR; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City Council has determined it to be in the best interest of the public health and welfare to create provisions in the Code to regulate exterior construction related noise; and,

**WHEREAS**, the City Council has reviewed the issue of revising the code related to regulating the days and hours of exterior construction related noise; and,

**WHEREAS**, regulating the days and hours for exterior construction noise generated within non-residential and residential areas is to protect the general health and welfare of the community; and,

**WHEREAS**, the intent and purpose of this ordinance is to enact regulations and procedures to ameliorate the nuisance created by exterior construction related noise that is disruptive to quality of life and to provide for days and hours of regulation related to exterior construction noise and to provide for a process of corrective actions and fines; and,

**WHEREAS**, repeated exterior construction related noise nuisance calls to code enforcement and law enforcement services can be a financial burden to the City and this ordinance is a means to address this condition and to hold accountable those persons or entities that are responsible for such noise related nuisance that occurs as a result of exterior construction.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF SEMINOLE, FLORIDA CITY COUNCIL, AS FOLLOWS;**

**Section 1. Chapter 18, Article III, of the Code of Ordinances is amended to create Section 18-67, to read as follows:**

**Sec. 18-67. - Exterior construction, days and hours of operation.**

- (a) It is the intent of this section to identify the days of the week and the hours of the day that exterior construction activities, including but not limited to, exterior building construction, exterior alterations, exterior improvements, exterior non-emergency repairs, demolition, major excavation, drilling, coring, pile driving, or any other outside construction activity,

which results in noise that differs from typical daily activity in the surrounding area of the exterior construction are prohibited. A construction site is defined as a property over which the City has code enforcement jurisdiction and where any of the above listed activities are occurring.

- (b) This section shall apply to construction sites as follows:
  - (1) Exterior construction activities shall not occur Monday through Friday prior to 7:00 a.m. and shall cease operations prior to 7:00 p.m.
  - (2) Exterior construction activities shall not occur on Saturdays prior to 9:00 a.m. and shall cease operations prior to 6:00 p.m.
  - (3) Exterior construction activities shall not occur on Sundays, or federally recognized holidays, prior to 11:00 a.m. and shall cease operations by 5:00 p.m.
  - (4) This section shall not apply to any construction activities conducted on any public street, road, highway or right-of-way or on any property where the City does not have code enforcement jurisdiction.
  - (5) This section shall not apply during the period of time that a declaration of emergency has been issued by the governor of the State, the Pinellas County Board of County Commissioners, or the City Council, related to the necessity of allowing for exterior construction.
  - (6) The Building Official may approve days and hours of operation different than the provisions of this section after reviewing a written request for exemption provided by the developer, architect, engineer, or contractor of record. The request must include the following information:
    - a. The challenges prohibiting normal days and hours of operation for the exterior construction.
    - b. Means of mitigation of excessive noise, dust, traffic, light, or any other potential nuisance related to the exterior construction.
    - c. The projected duration for alternative scheduling for the exterior construction.
    - d. If the Building Official finds that the proposed mitigation adequately protects surrounding areas near the exterior construction from the negative impacts of the exterior construction activities, the revised work schedule may be approved. The Building Official may revoke such approval if the approved work schedule is not followed or it is determined that the approved work schedule does not adequately protect the surrounding areas near the exterior construction.

**Section 2. Chapter 18, Article III, of the Code of Ordinances is amended to create Section 18-68, to read as follows:**

**Sec. 18-68. – Enforcement, penalties, continuing violations.**

- (a) On a property found in violation of any of the provisions of section 18-67, said property owner, contractor, subcontractor, or authorized agent, as may be applicable, shall be subject

to a warning and fines, provided as follows: The first violation of any provision of the section 18-67 shall result in a written warning to the property owner, contractor, subcontractor, or authorized agent, as may be applicable. The second violation of any provision of section 18-67 within 365 days after a written warning has been issued is punishable by a fine in the amount of \$250.00. Subsequent violations of section 18-67 within one year of a violation which resulted in a \$250.00 fine, which has been disposed of in any way other than a dismissal or finding of not guilty by a court, shall be punishable by a fine of \$500.00.

- (b) In cases where a violation of the provisions of this section 18-67 occurs in or upon a property owned or controlled by an incorporated entity or limited liability company registered to conduct business in the State of Florida, the warning, monetary citations, and/or injunctive relief, as applicable, shall be applied and enforced against such entity, and the registered agent of the entity shall be served by mail with notice of the warning or violation.
- (c) A violation of section 18-67 is also subject to enforcement under the provisions of section 1-15 of the Code.

**Section 3. Chapter 2, Article IV, Section 2-106 of the Code of Ordinances is amended, to read as follows:**

**Sec 2-106. – Definitions.**

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

Code means the Code of Ordinances and/or the Land Development Code, of the City of Seminole.

Code inspector means any authorized agent, law enforcement officer employed or contracted to provide police services to the city, or employee of the city whose duty it is to assure code compliance.

Repeat violation means a violation of a provision of a code or ordinance by a person whom the code enforcement special magistrate has previously found to have violated the same provision within five years prior to the violation or as otherwise defined in the Code.

**Section 4. Chapter 2, Article IV, Section 2-108 of the Code of Ordinances is amended, to read as follows:**

**Sec 2-108. – Authority, enforcement, and general penalty.**

- (a) Notwithstanding any other provisions of the Code of Ordinances or the Land Development Code to the contrary, all City Manager designated Code Enforcement Officers and authorized law enforcement officers are authorized to enforce and to issue citations for violations of the provisions of the Code of Ordinances or the Land Development Code. The City Manager is authorized to designate employees as Code Enforcement Officers for the enforcement of the

Code of Ordinances or the Land Development Code. The City Manager is authorized to promulgate administrative rules and procedures for the enforcement and prosecution for violations of the Code of Ordinances or for violations of the Land Development Code. The City Council is authorized by ordinance to create fines and penalties for violations of the Code of Ordinances and/or the Land Development Code.

- (b) The City may use any enforcement method authorized or allowed by law including, but not limited to, the issuance of a citation, a summons, or a notice to appear in county court pursuant to F.S. chs. 162 and 166, notification and citation to the code enforcement special magistrate pursuant to F.S. ch. 162, Chapter 1 and Chapter 2 of this Code, and arrest by a duly sworn law enforcement officer for violation of any municipal ordinance as provided for in F.S. ch. 901. This section shall not prevent any civil action to enforce or compel compliance with the Code.
- (c) The prosecution of any offense committed against or in violation of any provision of the Code of Ordinances, the Land Development Code, or any ordinance of the City, shall be commenced within one year after the offense has been discovered by a City employee or law enforcement officer having the authority to commence enforcement actions for a violation. This limitation shall not apply to any violation that is continuous with respect to time. In the case of a State misdemeanor adopted by reference in section 22-1, the period in which prosecution must be commenced shall be as provided by statute for such misdemeanor. Any condition caused or permitted to exist in violation of any of the provisions of the Code of Ordinances, the Land Development Code, or any other ordinance of the city, shall be deemed a public nuisance and shall be subject to abatement by the city.
- (d) Each act, action, or thing done in violation of the provisions of this Code or any ordinance of the city shall be construed, deemed, and taken as a separate and distinct violation of such provision; and, in every event that a violation of this Code or any of the provisions hereof shall continue, each day of such continuance shall be construed, deemed, and taken as a separate and distinct violation of the provisions of this Code.
- (e) The violation of or failure to comply with any provision of the Code of Ordinances, the Land Development Code, or any other ordinance of the City, shall constitute an offense against the city, and where no specific penalty is provided therefor shall subject the offender, upon conviction, to a fine not to exceed \$500.00 or imprisonment for a period of not to exceed 60 days, or by both such fine and imprisonment.

**Section 5.** The provisions of this Ordinance shall be deemed to severable. If any part of this Ordinance is deemed unconstitutional, it shall not affect the constitutionality of the other portions of this Ordinance.

**Section 6.** The provisions of this Ordinance shall be deemed to severable. If any part of this Ordinance is deemed unconstitutional, it shall not affect the constitutionality of the other portions of this Ordinance.

**Section 7.** This Ordinance shall become effective immediately upon final passage and adoption.

APPROVED ON FIRST READING: August 11, 2020


PUBLISHED: August 19, 2020

PASSED AND ADOPTED ON  
SECOND AND FINAL READING AT PUBLIC HEARING: September 3, 2020

  
LESLIE WATERS, MAYOR

I, Ann Marie Mancuso, City Clerk of the City of Seminole, Florida, County of Pinellas, State of Florida, a municipal corporation, do hereby certify the foregoing and hereto attached is a true and correct copy of Ordinance No. 06-2020 which is on file in the City Clerk's Office:

IN WITNESS WHEREOF, I hereunto set my hand and affixed the seal of the City of Seminole, Pinellas County, Florida, this 8 day of September, 2020.

  
Ann Marie Mancuso, City Clerk

