

**ORDINANCE 2019-**

**AN ORDINANCE RELATING TO NOISE; AMENDING SUBSECTIONS (c) AND (d) OF CHAPTER 22 – ENVIRONMENT, ARTICLE II – NUISANCES, SECTION 37 – NOISE; PROVIDING FOR CONFLICTING PROVISIONS, SEVERABILITY AND APPLICABILITY; PROVIDING A REPEALER PROVISION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Naples regulates the days and times when lawn and tree maintenance may be performed in Chapter 22, Article II, Section 37(c)(14) of the Code of Ordinances; and

**WHEREAS**, City Council desires to amend Chapter 22, Article II, Section 37 of the Code of Ordinances to provide residents additional relief from noise generated by lawn, landscape and tree maintenance services and equipment and to provide for certain exemptions.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA:**

**Section 1.** That subsections (c) and (d) of Chapter 22 – Environment, Article II – Nuisances, Section 37 – Noise, of the Code of Ordinances, City of Naples, is hereby amended to read as follows (with underlining indicating additions and ~~strike through~~ indicating deletions):

**Chapter 56 – ENVIRONMENT**

...

**Article II – NUISANCES**

...

**Sec. 22-37. Noise.**

...

(c) *Specific noise prohibitions.* The following acts, where meeting the definition of noise above, are declared to be examples and prima facie evidence of noises that constitute a noise disturbance, breach of the peace and public nuisance:

(1) *Radios, audio or visual equipment, sound equipment, sound amplification devices, exterior loudspeakers, musical instruments and similar devices.* Operating or permitting the use or operation of any radio, musical instrument, audio or visual equipment, sound amplification devices, exterior loudspeaker, or other device for the production or reproduction of sound in such a manner as to cause noise. The operation of any such device for the production or reproduction of sound:

a. Between the hours of 10:00 p.m. and 7:00 a.m. shall be controlled so that it is not loud or disturbing or a nuisance to persons within the area of audibility, or

b. At any time with louder volume than is necessary for convenient hearing for persons who are in the same dwelling unit of any multiple dwelling in which such device is operated, shall be deemed prima facie evidence of a violation of this section.

Radios, audio systems and similar devices associated with motor vehicles or motorboats, shall not be operated in such a manner as to create noise that is plainly audible at 25 feet or more from such device, when operated on a public right-of-way, waterways, beaches, or public space.

- (2) *Engine mufflers.* Operating any internal combustion engine, including such an engine associated with a motorboat, or motor vehicle without a muffler or other device at least as effective as that installed as original equipment by the manufacturer, which will effectively prevent loud or explosive noises therefrom.
- (3) *Motor vehicle, motorcycle or motorboat repair in residential areas.* The noncommercial repairing, rebuilding, modifying or testing of any motor vehicle, off-road vehicle, or motorboat within or abutting any residential land use designation in such a manner as to create noise across a real property line between the hours of 10:00 p.m. and 7:00 a.m.
- (4) *Activities in the vicinity of schools, churches, and health care facilities.* Creating noise on any street adjacent to any school, church, or health care facility, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in a health care facility.
- (5) *Peddling, hawking, or vending.* Peddling, hawking, or vending, including shouting, crying out by peddlers, hawkers or vendors along or on a roadway.
- (6) *Yelling, shouting.* Yelling, shouting, hooting, whistling, singing, or the making of similar noises, and loud, boisterous conduct other than normal conversation at reasonable levels, inside of or on the grounds of any public or private property between the hours of 10:00 p.m. to 7:00 a.m., so as to annoy or disturb the quiet, comfort, or repose of other persons or create a disturbance.
- (7) *Horns, signal devices.* Sounding of any horn or audible signal device of any motor vehicle, boat, engine, or machine of any kind while not in motion, nor shall such horn or signal device be sounded under any circumstances except as required by law, or as a danger warning, nor shall it be sounded for any unnecessary or unreasonable period of time.
- (8) *Air conditioning units and other mechanical equipment including, pool or spa heaters and pumps, and regularly-used generators, irrigation pumps and exhaust fans.* Operating any noise creating fan or blower, air conditioner, compressor unit, pool heaters, pool pumps, heat pumps, or the electric motor or any engine used to drive such device, the operation of which causes excessive and unnecessary noise, unless such noise is muffled and deadened by adequate noise

compression and muffling devices to minimize annoyance and disturbance to persons within range of hearing. Noise shall be presumed excessive if it exceeds decibel limitations prescribed in Table 1 when measured at the property line of the receiving property. Mechanical equipment installed before December, 2006 shall not exceed 60 decibels (dBA).

- (9) *Drums, cymbals, musical instruments and loudspeakers.* Creating, making, or maintaining any noise by the use of any drum, cymbals, loudspeaker, or other similar instruments in the city for the purpose of attracting attention to any performance, show, sale, or display of merchandise, or place of business. This provision shall not apply to permitted special events.
- (10) *Bells or sirens on vehicles.* Using, in connection with an unauthorized vehicle, any bell or siren similar to that used on ambulances or vehicles of the sheriff, fire departments, and other public safety agencies.
- (11) *Skateboard ramps.* Using any skateboard ramp or similar configuration for skateboarding or rollerblading between 10:00 p.m. and 7:00 a.m. in a residential land use designation in such a manner that results in noise across a real property line.
- (12) *Powered model vehicles.* Operating or permitting the operation of powered model vehicles in such a manner as to create noise across a real property line between the hours of 9:00 p.m. and 7:00 a.m.
- (13) *Animal noises.* Allowing an animal to habitually bark, whine, howl, squawk, screech, or cause any other noise which is objectionable due to pitch, frequency, duration, or timing.
- (14) *Lawn, landscape and tree maintenance.* Permitted days and hours of operation for lawn and landscape maintenance, tree trimming and tree removal. Lawn and landscape maintenance activities, tree trimming activities, and tree removal activities may be conducted only during the following hours, Monday through Sunday except New Year's Day, Easter Sunday, Memorial Day, July 4th, Labor Day, Thanksgiving Day and Christmas Day:
- a. *Monday through Friday hours of operation:*
    1. In residential areas: ~~7:30~~ 7:00 a.m. to ~~5:30~~ 7:00 p.m.
    2. In nonresidential areas: 6:30 a.m. to ~~5:30~~ 7:00 p.m.
  - b. *Saturday hours of operation:*
    1. Businesses that perform lawn and landscape maintenance, tree trimming, or tree removal services may perform services in residential and nonresidential areas from 8:00 am to 4:00 pm. ~~In residential areas: 8:00 a.m. to 7:00 p.m.~~
    2. Residents may perform lawn and landscape maintenance activities in residential areas at their own property from 8:00 am – 7:00 pm. ~~Nonresidential areas: 6:30 a.m. to 7:00 p.m.~~
  - c. *Sunday hours of operation:*
    1. Businesses that perform lawn and landscape

maintenance, tree trimming, or tree removal services are prohibited from working on any Sunday in residential or nonresidential areas.~~Lawn maintenance activities in residential and nonresidential areas may occur on Sunday between the hours of 8:00 a.m. and 7:00 p.m.~~

2. Residents may perform lawn and landscape maintenance activities in residential areas at their own property from 8:00 a.m. and 5:00 p.m.~~Tree trimming or tree removal shall not occur on Sunday in residential or nonresidential areas unless a special permit is obtained in accordance with this subsection.~~

- (15) *Outdoor live entertainment.* Providing outdoor live entertainment, as authorized in section 56-125 of the Code of Ordinances
  - a. In such a manner as to create noise as defined in this section, or,
  - b. In excess of the decibel limitations prescribed in Table 1.

- (d) *Exemptions.* The following noises shall be exempt from the restrictions set forth in the other sections of this article:

- (1) Noises of authorized safety signals and warning devices.
- (2) Noises resulting from any authorized emergency vehicle, when responding to an emergency call or acting in time of emergency or any other public safety operation.
- (3) Noises resulting from emergency work, which is to be construed as work made necessary to restore property to a safe condition following a public calamity, or work required to protect persons or property from any imminent exposure to danger.
- (4) Noises incidental to and necessary for city approved solid waste collection equipment, public works construction and maintenance; and police or fire training.
  - a. The city manager, may grant a waiver, may prescribe any reasonable conditions or requirements it deems necessary to minimize adverse effects upon the community or the surrounding neighborhood.
  - b. A waiver may be given upon finding that it will not unreasonably disturb, injure or endanger the comfort, repose, health, peace or safety of any affected persons because it is temporary in nature, adjacent property owners do not object, or for necessity or unavoidability.
  - c. Waivers may be issued for no longer than 30 days, renewable by further application to the city manager.

- (5) City maintenance activities and equipment operation within Public Service zoning districts, whether performed by city staff or a city contractor, may take place between the hours of 8:00 a.m. and 4:00 p.m. on Sunday.

- (6) City maintenance activities and equipment operation at public beach

access areas, whether performed by city staff or a city contractor, may take place between the hours of 7:30 a.m. and 4:00 p.m. on Saturday and Sunday.

(7) Golf course maintenance activities and equipment operation within the city is not restricted during the hours listed in subsection 22-37(c)(14).

(8) Lawn and landscape maintenance equipment may be used within the Fifth Avenue South Special Overlay District and the Third Street Commercial Area Special Overlay District between the hours of 8:00 a.m. and 4:00 p.m.

(9) Special event permit holders may use lawn and landscape maintenance equipment after the afternoon hours listed in subsection 22-37(c)(14) to clean up special event areas provided the cleanup is performed expeditiously and immediately after the event ends.

...

**Section 2.** That if any word, phrase, clause, subsection or section of this ordinance is for any reason held unconstitutional, invalid, or ineffective, the same shall not affect the validity of any remaining portions of this ordinance. In such event, the pre-existing word, phrase, clause, subsection or section, shall be revived.

**Section 3.** That all sections or parts of sections of the Code of Ordinances, City of Naples, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

**Section 4.** This ordinance shall take effect immediately upon adoption at second reading.

**APPROVED AT FIRST READING AND PUBLIC HEARING THE 6TH DAY OF FEBRUARY 2019**

**ADOPTED AT SECOND READING AND PUBLIC HEARING IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA THIS 20<sup>TH</sup> DAY OF FEBRUARY 2019.**

Attest:

\_\_\_\_\_  
Patricia L. Rambosk, City Clerk

\_\_\_\_\_  
Bill Barnett, Mayor

Approved as to form and legality:

  
\_\_\_\_\_  
James D. Fox, City Attorney

Date filed with City Clerk:\_\_\_\_\_