

ORDINANCE 2020-

**AN ORDINANCE RELATING TO LEAF BLOWER USE, AMENDING CHAPTER 22, ENVIRONMENT, ARTICLE II, NUISANCES, SECTION 22-37, NOISE; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION, AND AN EFFECTIVE DATE.**

**WHEREAS,** the City of Naples regulates Noise as specified in Chapter 22, Article II, Section 37, Code of Ordinances; and

**WHEREAS,** residents have petitioned City Council asking for relief from excessive noise generated by certain leaf blowers that unreasonably interferes with resident's customary use and enjoyment of their property; and

**WHEREAS,** City Council desires to prohibit the use of certain leaf blowers within the City's corporate limits to mitigate excessive noise that is generated by certain leaf blowers;

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

**Section 1.** That Section 22-37, Noise, of the Code of Ordinances, City of Naples, is hereby amended to read as follows (with underlining indicating additions and ~~strikethrough~~ indicating deletions):

**Chapter 22 – ENVIRONMENT**

...

**ARTICLE 11. – NUISANCES**

...

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

(a) *Definitions.*

*A-weighted level (dBA)* means the total broad band sound level of the noise spectrum as measured using the "A-weighted network" of a sound level meter (SML). The unit of measurement is the dBA. All sound level meter settings will ~~shall~~ be for slow response, except for impulsive noise measurements which will ~~shall~~ be fast response.

*Ambient sound* means the all-encompassing sound associated with a given environment, being usually a composite of sounds from many sources near and far. For the purposes of this section, ambient sound level is the level obtained when the sound level is averaged over a period of at least 15 minutes without inclusion of sound from occasional or occasional and transient sources, at the location and time of day near that at which a comparison is to be made.

*Amplified sound* means sound augmented by any electronic means that increases the sound level or volume.

*Decibel (dB)* means a unit for describing the amplitude of sound, equal to 20 times the

logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micronewtons per square meter.

*Impulsive sound* means a noise which is characterized by brief excursions of sound pressure which significantly exceed the ambient sound level.

*Leaf Blower* means any air blowing machine that uses a concentrated stream of air to push, propel, or blow dirt, dust, leaves, grass clippings, trimmings, cuttings, refuse, or debris.

*Nearest adjacent property line* means the property line closest to the noise source.

*Noise, or noise disturbance*, means any sound that:

- (1) Exceeds the maximum permitted sound levels set out in Table 1 of this section;  
or
- (2) Is loud and raucous so as to unreasonably disturb, injure, or endanger the comfort, repose, health, peace, tranquility, or safety of reasonable persons of ordinary sensibilities;
- (3) Constitutes a breach of the peace or a public nuisance;
- (4) Is plainly audible at a distance of 25 feet or more from the property line; or
- (5) With respect to vehicles and vessels, is plainly audible at a distance of 25 feet from the noise source.

*Non-residentially zoned areas* means those zoning districts which are not zoned primarily for single-family or multifamily use. Non-residentially zoned areas include all commercial, industrial, public service, PD for commercial uses, and other districts which permit nonresidential uses.

*Octave band* means all of the components in a sound spectrum whose frequencies are between two sine-wave components separated by an octave.

*Property line* means an imaginary line exterior to any enclosed structure, at the ground surface, which separates the real property owned by one person from that owned by another person, and its vertical extension.

*Pure tone* means any sound which can be distinctly heard as a single pitch or a set of single pitches. For the purposes of measurement, a pure tone ~~will shall~~ exist if the one-third octave band sound pressure level in the band with the tone exceeds arithmetic value of the sound pressure levels of the two contiguous one-third octave bands by five dB for center frequencies of 500 Hz and above and by eight dB for center frequencies between 160 and 400 Hz and by 15 dB for center frequencies less than or equal to 125 Hz.

*Receiving property* means the property which is receiving the noise.

*Sound* means 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 amplifying equipment* means any machine or device for the amplification of human voice, music, or any other sound.

*Sound level meter* means an instrument to measure the sound pressure level of relatively continuous and broadband noises. The sound level meter used to determine compliance with this section ~~must shall~~ meet or exceed the requirements for Type 2 sound level meter in accordance with ANSI Standard S1.4.

- (b) *General prohibitions.*
- (1) It ~~will~~ shall be unlawful and prohibited for any person to make, continue, or cause to be made or continued any noise, as defined in this section, or to create any noise disturbance within the limits of the city.
  - (2) It ~~will~~ shall be unlawful and prohibited for any person owning or in possession of any building or premises to use, allow the use, or rent the same for any business or residential use, or for any purpose of pleasure or recreation if such use makes, continues, or causes to be made or continued, any noise, as defined in this section, within the limits of the city.
- (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. ~~must~~ 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, ~~will~~ 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 ~~near 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., ~~that so as to~~ annoys or disturbs 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 ~~will shall~~ such horn or signal device be sounded under any circumstances except as required by law, or as a danger warning, nor ~~will 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 ~~will 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 a.m. to 5:30 p.m.
      2. In nonresidential areas: 6:30 a.m. to 5:30 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 a.m. to 4:00 p.m.
  2. Residents may perform lawn and landscape maintenance activities in residential areas at their own property from 8:00 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.
  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.
- (15) *Leaf blowers.* The use of gasoline-powered leaf blowers is prohibited within the city. This prohibition will become effective one year from the date approved by Council.
- a. Battery- and electric-powered leaf blowers may be used within the city provided they do not exceed a decibel level of 65 dBA as shown on the manufacturers label affixed to the leaf blower.
  - b. Battery- and electric-powered leaf blowers that do not have a manufacturers label affixed to it that reflects its dBA rating may not be used within the city.
- (165) *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 as measured at the receiving property or a substantially similar location.
- (d) *Exemptions.* The following noises will 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.
- (e) *Octave band levels.* In addition to the noise limitations listed in this section, for any source or sound that can be detected on a receiving property, when measured at the nearest point of the property line of the receiving property, the maximum allowable sound level limit for the individual octave bands must shall comply with Table 1. In no case will shall the noise level on the premises of any other occupied property measured at a point on the nearest adjacent property line closest to the noise source, or if a condominium, apartment house, duplex, or attached business, within any adjoining unit, exceed the ambient noise level by more than five decibels.

**Table 1**

Octave Band Center Frequency (in Hertz.)	Residential Site or Unit*		Non-Residential Site or Unit*		Manufacturing, Industrial, or Agricultural Site or Unit*
	Day 7 a.m.—10 p.m.	Night 10 p.m.—7 a.m.	Day 7 a.m.—10 p.m.	Night 10 p.m.—7 a.m.	
31.5	69	64	74	69	79
63	69	64	74	69	79
125	66	61	71	66	76
250	62	57	67	62	72
500	58	53	63	58	68
1,000	53	48	58	53	63
2,000	49	44	54	49	59
4,000	46	41	51	46	56

Octave Band Center Frequency (in Hertz.)	Residential Site or Unit*		Non-Residential Site or Unit*		Manufacturing, Industrial, or Agricultural Site or Unit*
	Day 7 a.m.—10 p.m.	Night 10 p.m.—7 a.m.	Day 7 a.m.—10 p.m.	Night 10 p.m.—7 a.m.	
8,000	42	37	47	42	<u>52</u>
DBA	60	55	65	60	70

\* These uses pertain to the receiving site.

- (f) *Enforcement and penalties.* A violation of this section is a non-criminal infraction, and the civil penalty is \$100.00 for the first offense and \$500.00 for each subsequent offense occurring within one year after a finding of violation of the previous offense or a plea of no contest. It is also enforceable and punishable as provided in subsections 1-15(b), (c), (d) and (e) of this Code. In addition, if a permit for live entertainment, a special event, or extended hours has been issued and the permit holder or person acting under the permit, violates this section, the permit is subject to revocation or non-renewal.

**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 will not affect the validity of any remaining portions of this ordinance. In such event, the pre-existing word, phrase, clause, subsection, or section, will 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 will take effect immediately upon adoption at second reading.

**APPROVED AT FIRST READING THIS 7<sup>TH</sup> DAY OF OCTOBER 2020.**

**SCHEDULED FOR SECOND READING AND PUBLIC HEARING IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA THE 21<sup>ST</sup> DAY OF OCTOBER 2020.**

Attest:

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

\_\_\_\_\_  
Teresa Heitmann, Mayor

Approved as to form and legality:

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

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