

ORDINANCE NO. 2022-06

AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, AMENDING CHAPTER 7, HEALTH, SANITATION AND NUISANCES, ARTICLE III, NOISE, IN GENERAL, SECTION 7-56; TO REDUCE CONSTRUCTION HOURS PERMITTED, PERMIT THE CITY MANAGER THE RIGHT TO APPROVE NOISE OUTSIDE THE PERMITTED HOURS, CREATE NEW SANITATION OPERATION HOURS, AND CREATE NEW NOISE LIMITATIONS ON HEATING, VENTILATION AND AIR CONDITIONING EQUIPMENT, AND LANDSCAPING AND YARD MAINTENANCE POWER TOOLS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Greenacres, Florida (the “City”) is a duly constituted municipality having such home rule power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Development and Neighborhood Services Department has submitted a request for a Code of Ordinance amendment to revise Chapter 7, Article III in regard to noise; and

WHEREAS, it has been determined, in accordance with the Development Review Committee that certain amendments to the City’s Code of Ordinance are appropriate; and

WHEREAS, the proposed amendments will improve the quality of life for the residents of Greenacres by ensuring that noise is at a level and permitted at appropriate times so as not to interrupt the residents’ daily activities; and

WHEREAS, the City Council deems approval of this Ordinance to be in the best interest of the residents and citizens of the City of Greenacres and serves a valid public purpose.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, THAT:

SECTION 1. Chapter 7 of the City of Greenacres Code of Ordinance is hereby amended as follows (additions are indicated by underscoring and deletions are indicated by strikeout):

CHAPTER 7, HEALTH, SANITATION AND NUISANCES

ARTICLE III- NOISE

Sec. 7-56. - Prohibited acts.

General prohibition. It shall be unlawful and a violation of this article for any person to make, cause or allow the making of any unreasonably loud, excessive, unnecessary, or unusual noise. The following acts, among others, are declared to be unreasonably loud, excessive, unnecessary, or unusual noises in violation of this section, but this enumeration shall not be deemed to be exclusive:

(1) *Horns and signal devices.* No person shall sound any horn or audible signal device on any automobile, motorcycle, or other vehicle under any circumstances except as required by law or as a danger warning; nor shall such horn or signal device be sounded for any unnecessary or unreasonable period of time.

(2) *Radios, televisions, electronic audio equipment, musical instruments, and similar devices.* The using, operating, or permitting to be played, used or operated any radio, "boom box," tape player, CD player, television, electronic audio equipment, musical instrument, sound amplifier or other mechanical, electronic, or similar sound making device that produces, reproduces or amplifies sound (collectively, "sound devices") in such a manner as to disturb the peace, quiet and comfort of neighboring inhabitants or visitors or at any time louder than is necessary for the convenient hearing of the person or persons who are in the room, vehicle, chamber or other area in which such machine or device is operated and who are voluntary listeners thereto. The operation of any sound device between the hours of 10:00 p.m. and 7:00 a.m. in such manner as to be plainly audible shall be prima facie evidence of a violation of this section. Even if the plainly audible standard is not met, the city may otherwise prove that the noise was unreasonably loud, excessive, unnecessary, or unusual.

(3) *Loudspeakers and advertising devices.* No person shall use, operate, or play any loudspeaker, sound amplifier or musical instrument which produces or reproduces sound which is cast or emitted upon the public streets and sidewalks for the purpose of commercial advertising or for attracting the attention of the public to any building, structure, or place or to the activity which is being conducted thereon.

(4) *Machinery and construction activities.* The using, operating, or permitting to be used or operated any machinery, demolition equipment, construction equipment, excavating equipment, power tool, equipment of semi-mechanical device or the undertaking of

construction work in a manner that disturbs the peace, quiet and comfort of neighboring inhabitants or visitors between the hours of ~~9:00 p.m. and 7:00 a.m.~~ 8:00pm and 7:00am Monday through Saturday the following day. Work is prohibited on Sundays and Federal Holidays except property owners are permitted to perform home repairs and maintenance on Sundays between the hours of 9:00am and 6:00pm. This subsection shall not prohibit emergency work. ~~This subsection shall not prohibit the normal use of domestic power tools, lawn maintenance devices and repairs between the hours of 7:00 a.m. to 8:00 p.m. by the property owner.~~ However, the City Manager is authorized to approve demolition and construction outside the permitted hours upon a finding that additional hours are required for the reasonable completion of a demolition or construction task and deemed in the best interest of the City. Nothing in this section shall prohibit the use of temporary pumps or machinery which, because of their very nature and purpose, are required to be operated 24 hours a day. However, these temporary pumps or machinery may not operate at a decibel level higher than allowed by this chapter.

(5) *Animals and birds.* The owning, harboring, possessing, or keeping of any animal, including, but not limited to, dogs, cats, birds, reptiles, etc., which causes frequent, habitual, or long continued noise that disturbs the peace, quiet and comfort of the neighboring inhabitants or visitors.

(6) *Commercial sanitation operations.* No person shall cause, allow, or permit the loading, unloading, opening, or otherwise handling boxes, crates, containers, garbage cans, or recyclable containers, between the hours of 10:00 p.m. and 7:00 a.m. daily when such operations are conducted on a property located within two hundred fifty (250) feet of a residential use.

(7) *Heating, ventilation, and air conditioning (HVAC) equipment on residential property.* No person shall operate or cause to be operated any HVAC equipment on residential property which exceeds forty (40) dBA between the hours of 10:00 p.m. and 7:00 a.m. daily when measured within the premises of a complainant.

(8) *Landscaping and yard maintenance power tools or motorized equipment.* No person shall operate or cause to be operated any landscaping or yard maintenance power tools or motorized equipment Monday through Friday before 7:00 a.m. or after 8:00 p.m. and Saturday and Sunday before 8:00 a.m. or after 6:00 p.m. No person shall operate or cause to be operated any landscaping or yard maintenance power tools or motorized equipment or appurtenances thereto with sound-control devices less effective than those provided on the original equipment.

SECTION 2. Changes in the Law.

To the extent the provisions of this Ordinance or § 381.986, Florida Statutes, are declared unconstitutional or are superseded, the City would adhere to its current regulations, including

continuing to adhere to the federal prohibition on marijuana. Should the federal law on marijuana change, this Ordinance shall be reviewed and amended as appropriate.

SECTION 3. Repeal of Conflicting Ordinances.

All Ordinances or parts thereof or parts of the Code conflicting or inconsistent with the provisions of this Ordinance are hereby repealed.

SECTION 4. Severability

If any section, part of a section, paragraph, sentence, clause, phrase or word of this Ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holdings of invalidity shall not affect the remaining portion of this Ordinance and it shall be construed to have been the legislative intent to pass the Ordinance without such unconstitution; invalid or inoperative part therein, and the remainder of this Ordinance after the exclusion of such part or parts shall be deemed to be held valid as if such part or parts had not been included therein, or if this Ordinance or any of the provisions thereof shall be held inapplicable to any person, group of persons, property, kind of property, circumstances, or set of circumstances, such holdings shall not affect the applicability thereof to any other person, property or circumstances.

SECTION 5. Inclusion in Code

It is the intention of the City Council, entered as hereby ordained, that the provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of the City of Greenacres, Florida; that the Section(s) of this Ordinance may be renumbered or re-lettered to accomplish such intention, and that the word "Ordinance" may be changed to "Section", "Article" or another word.

SECTION 6. Effective Date

The provisions of this Ordinance shall become effective upon adoption.

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Passed on the first reading this 21st day of Month, 2022.

PASSED AND ADOPTED on the second reading this 4th day of April 2022.

Voted:

Joel Flores, Mayor

John Tharp, Deputy Mayor

Attest:

Voted:

Quintella Moorer, City Clerk

Peter Noble, Council Member, *District II*

Voted:

Judith Dugo, Council Member, *District III*

Voted:

Susy Diaz, Council Member, *District IV*

Voted:

Paula Bousquet, Council Member, *District V*

Approved as to Form and Legal Sufficiency:

Glen J. Torcivia, City Attorney