CITY OF SANIBEL

ORDINANCE 19-012

AN ORDINANCE AMENDING THE SANIBEL CODE OF ORDINANCES, CHAPTER 30 – ENVIRONMENT; AMENDING ARTICLE III – NOISE; AMENDING SECTION 30-61 – DEFINITIONS; AMENDING SECTION 30-65 – EXCEPTIONS; ADDING SECTION 30-70 - GAS POWERED LEAF BLOWERS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in response to numerous complaints by residents of the City of Sanibel regarding offensive noise and environmental pollution in connection with the use of gas powered leaf blowers, City Council directed staff to research regulation options and local ordinances throughout the country;

WHEREAS, after thorough consideration of various regulation options, City Council finds it is in the best interests of the residents, property owners, and visitors of the City of Sanibel to regulate the operation of gas powered leaf blowers;

WHEREAS, Section 30-61, Sanibel Code of Ordinances, defines certain noise-related terms; and

WHEREAS, Section 30-64, Sanibel Code of Ordinances, defines certain noise disturbances; and

WHEREAS, Section 30-65, Sanibel Code of Ordinances, provides certain exceptions to noise limitations set forth in Section 30-64, Sanibel Code of Ordinances; and

WHEREAS, City Council desires to add a new definition entitled "Gas Powered Leaf Blowers" to Section 30-61, to modify the noise disturbance exceptions in Section 30-65, and to add a new section of the Code, Section 30-70 – Gas Powered Leaf Blowers, in furtherance of its efforts to appropriately regulate the use of gas powered leaf blowers within the City of Sanibel; and

WHEREAS, these regulations are deemed necessary by the City Council to preserve the City's neighborhoods and quiet enjoyment of the environment within the City of Sanibel while also protecting the general welfare of residents, property owners and visitors alike; and

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Sanibel, Florida:

SECTION 1. The "Whereas" clauses above are true and correct and made a part hereof.

SECTION 2. Sanibel Code of Ordinances Chapter 30 – ENVIRONMENT, Article III – NOISE, SECTION 30-61 DEFINITIONS is hereby amended and SECTION, 30-70 GAS POWERED LEAF BLOWERS, is hereby created and added with ~~strikethrough~~ language indicating deletions and <u>underlined</u> language indicating additions as follows:

Sec. 30-61. - 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:

Ambient sound means the all-encompassing sounds associated with a given environment, being usually a composite of sound from many sources near and far.

A-weighted level (dBA) means the total broadband sound level of the noise spectrum as measured using the "A-weighted network" of a sound level meter. The unit of measurement is the dBA.

Commercial zone means any geographic area designated as a commercial district under the Sanibel Plan, except for institutional districts.

Decibel (dB) means a division of a logarithmic scale used to express the ratio of two like quantities.

Duplex means a structure containing two dwelling units.

Emergency means an occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

Emergency work means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

<u>*Gas powered leaf blowers* means a device that either propels air out of a nozzle to move landscape-related debris such as leaves or grass clippings or which acts as a vacuum to intake such landscape-related debris, and which device is powered by an internal combustion engine.</u>

Impulsive sound means a sound of short duration, usually less than one or two seconds, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts, and the discharge of firearms.

Institutional zone means any geographic area designated as an institutional district under the Sanibel Plan.

Multifamily dwelling means a structure containing more than two dwelling units.

Noise means any sound which annoys or disturbs humans or causes or tends to cause an adverse psychological effect on humans.

Noise disturbance means one or a group of loud, harsh, nonharmonious sounds or vibrations that are unpleasant and irritating to the ear, which is or may be harmful or injurious to the health or welfare of a reasonable person with normal sensitivities or which unreasonably interferes with the enjoyment of life, property or outdoor recreation. Any sound exceeding the permissible sound pressure levels established in this article is noise disturbance.

Noise level means the sound pressure level as measured in dBA, unless otherwise specified.

Person means any individual, natural person, public or private corporation, firm, association, joint venture, partnership, or any other entity whatsoever or any combination of such entities, jointly or severally.

Public space means any public right-of-way, beach, or area owned by a governmental agency.

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 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 500 Hz and by 15 dB for center frequencies less than or equal to 160 Hz.

RMS sound pressure means the square root of the time-averaged square of the sound pressure, denoted Prms.

Real property line means an imaginary line along the ground surface, and its vertical plane extension, which separates the real property owned, rented or leased by one person from that owned, rented or leased by another person or from any public space, excluding intrabuilding real property divisions.

Residential zone means any nonpublic geographic area not designated as a commercial district under the Sanibel Plan.

Sound level meter means an instrument including a microphone, an amplifier, an output meter, and frequency weighting networks for the measurement of noise and sound pressure levels.

Sound pressure level means twenty times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micropascals ($20 \times 10^{-6} N/m^2$). The sound pressure level is denoted Lp or SPL and is expressed in decibels.

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Sec. 30-64. - Noise disturbances.

(a) *Maximum permissible sound levels by receiving land use.* Operating, or causing or permitting to be operated, any source of sound in such a manner as to create a sound pressure level which, when measured at or outside of the real property line for the property on which such sound is created, exceeds the limits set forth for the receiving land use category (where the sound pressure level is measured) in the following table is hereby declared to be a noise disturbance in violation of this article:

SOUND PRESSURE LEVELS BY RECEIVING LAND USE

Receiving Land Use Category	Time	Sound Pressure Level Limit (dBA)
Residential zone, public space, or	7:00 a.m.—10:00 p.m.	66

institutional zone	10:00 p.m.— 7:00 a.m.	60
Commercial zone	7:00 a.m.—10:00 p.m. 10:00 p.m.— 7:00 a.m.	72 65

(b) *Correction for character of sound:*

(1) For any source of sound which emits a pure tone, the maximum sound pressure levels set forth in the table in subsection (a) of this section shall be reduced by 5 dBA.

(2) For any source of impulsive sound which is of short duration with an abrupt onset, the maximum sound pressure levels set forth in the table in subsection (a) of this section shall be increased by 10 dBA from 7:00 a.m. to 10:00 p.m.

(c) *Multifamily dwellings and duplexes.* In the case of multifamily dwellings and duplex dwelling units, it shall be unlawful to create or permit to be created any sound that exceeds a sound pressure level of 50 dBA, during the hours between 7:00 a.m. to 10:00 p.m., or 45 dBA during the hours between 10:00 p.m. and 7:00 a.m., daily, measured from a neighbor's dwelling unit within such multifamily or duplex structure.

(d) *Construction noise.* No person shall operate or permit to be operated any power-driven construction equipment without a muffler or other noise reduction device at least as effective as that recommended by the manufacturer or provided as original equipment. Construction equipment that must be operated in or within 100 feet of a residential zone on a 24-hour per day basis (i.e., pumps, well tips, generators, etc.) shall be shielded by a barrier to reduce the noise during the hours of 5:00 p.m. to 7:00 a.m., unless the unshielded sound pressure level is less than 55 dBA, measured at the closest adjacent residential zone property line.

(e) *Waivers.* An exception to the sound pressure levels listed in this section may be permitted by the granting of a waiver, under circumstances in which the activity creating the noise is of such importance to the public welfare, health or safety that the activity cannot be shut down, even though its sound pressure levels exceed those given in this section. Such waivers shall be granted by the city council.

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Sec. 30-65. - Exceptions.

Regardless of the limitations set forth in section 30-64, the following shall be permitted:

(1) The operation of warning or emergency signal devices such as sirens, horns, and bells when reasonably utilized for their intended purpose.

(2) Noises resulting from equipment or operations incidental to emergency installation, maintenance or repair of facilities or the restoration of services such as public utilities or other emergency work in the public interest, as determined by the city manager.

(3) The operation of an emergency electrical power generator in conformance with the standards for emergency electrical power generators in section 126-1306 of the Land Development Code.

(4) Noises consistent with cultural, sporting, historical or traditional observances, holidays, ceremonies, parades, and concerts, provided that any such event is operated and conducted pursuant to, and accordance with the conditions of, a special event permit issued pursuant to section 110-46 et seq.

(5) Except as provided in section 30-70, t~~T~~he operation of equipment or the conduct of activities normal to residential communities such as lawn care, soil cultivation, domestic power tools, lawn mowers, maintenance of trees, hedges, and gardens, refuse collection, saws and tractors, street sweepers, mosquito fogging, tree trimming and limb chipping, church bells, and other normal community operations, between the hours of 8:00 a.m. to 9:00 p.m.

Sec. 30-70. – Gas Powered Leaf Blowers.

Notwithstanding any contrary terms or provisions elsewhere in the code:

(1) The operation of any gas powered leaf blowers for any commercial purposes or by city employees or on behalf of the city is permissible only between the hours of 9:00 a.m. to 4:30 p.m., Monday through Saturday, except such gas powered leaf blowers are prohibited for use on the following federally recognized holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day and Christmas Day.

(2) The limitations and prohibitions in this section are inapplicable during times when the city has declared a local state of emergency.

SECTION 3. Codification. This ordinance shall be deemed an amendment to the Sanibel Code of Ordinances and shall be codified in the Sanibel Code of Ordinances as such an amendment. The City Clerk is hereby authorized and directed to instruct as part of the codification that all section numbers amended by this Ordinance are updated and corrected throughout the Code of Ordinances in the event such section numbers are referenced.

SECTION 4. Conflict. All ordinances and parts of ordinances in conflict herewith shall be and the same hereby repealed. If any part of this ordinance conflicts with any other part, the latter shall be severed, and the remainder shall have full force and effect and be liberally construed.

SECTION 5. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance, or application hereof, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion or application hereof.

SECTION 6. Effective Date. This ordinance shall become effective January 15, 2020.

DULY PASSED AND ORDAINED by the Council of the City of Sanibel, Florida, this 03 day of December, 2019.

First Reading: November 5, 2019
Publication Notice: November 22, 2019
Second Reading: December 03, 2019

AUTHENTICATION:

Kevin Ruane, Mayor

Pamela Smith, City Clerk

APPROVED AS TO FORM: 11/6/19

John D. Agnew, City Attorney Date

Vote of Council Members:

Ruane	yea
Denham	yea
Johnson	yea
Maughan	yea
Smith	yea

Date Filed with City Clerk: December 3, 2019