

CITY OF TIFTON GEORGIA

ORDINANCE NO. 2016 - ____

AN ORDINANCE OF THE CITY OF TIFTON, GEORGIA TO AMEND CHAPTER 38 ARTICLE II OF THE CODE OF ORDINANCES RELATED TO NOISE REGULATIONS; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

The City Council of the City of Tifton hereby ordains that:

I.

AMENDMENT TO CODE OF ORDINANCES

Chapter 38 Article II [Noise Regulation] of the Code of Ordinances shall be amended by deleting the current Sections 38-31 through 38-110 and substituting in lieu thereof the following:

Sec. 38-31 Purpose and Standards

- (a) *Purpose.* This section is enacted to protect, preserve and promote the health, safety and welfare of the citizens of the City of Tifton through the control of noise. It is the intent of this section to establish standards that will reduce excessive community noises, which are harmful and otherwise detrimental to individuals and to the community in the enjoyment of life and property and in the conduct of business.
- (b) *Sound measurement standards for law enforcement and code enforcement personnel.* For the purposes of this Article, "plainly audible" shall mean any sound emanating from the specific sound-producing sources set forth below which can be heard from the distances set forth below, using the following sound measurement standards: Measurement shall be by the auditory senses of a person standing at a distance no less than the required minimum distance from the source of the sound. For music and other noise, words and phrases need not be discernable. For music and other noise, bass reverberations are included.

Sec. 38-32 Prohibited Conduct

- (a) *Restrictions of 300 feet for 7:00 a.m. through 11:00 p.m. Sunday through Thursday and 7:00 a.m. through 12:00 midnight on Friday and Saturday.*
 - i. *Mechanical sound-making devices.* It is unlawful for any person or persons to play, use, operate, or permit to be played, used, or operated any radio receiving device, television, stereo, musical instrument, phonograph sound amplifier or other machines or devices for the producing, reproducing or amplifying of sound and/or noise at such a volume and in such a manner so as to create, or cause to be created, any noises or sounds which are plainly audible more than 300 feet beyond the property boundary of the property from which the noises and/or sounds emanate between the hours of 7:00 a.m. and 11:00 p.m. Sunday through Thursday and between the hours of 7:00 a.m. and 12:00 midnight on Friday and Saturday.

- ii. *Human-produced sounds.* It is unlawful for any person or persons to yell, shout, hoot, holler, whistle or sing on the public streets, sidewalks or on private property so as to create, or cause to be created, any noises or sounds which are plainly audible more than 300 feet beyond the property boundary of the property from which the noises and/or sounds emanate between the hours of 7:00 a.m. and 11:00 p.m. on Sunday through Thursday and between the hours of 7:00 a.m. and 12:00 midnight on Friday and Saturday.
 - iii. *Commercial advertising.* It is unlawful for any person or persons to use, operate, or permit to be used or operated any radio receiving device, musical instrument, phonograph, loud speaker, sound amplifier or other machine or device for the production or reproduction of sound which is cast upon the public streets or other public property for the purpose of commercial advertising or which serves to attract the attention of the public to any building, structure or vehicle in such a manner so as to create, or cause to be created, any noises or sounds which are plainly audible at a distance of 300 feet or more from the source of the sound cast upon the public streets or other public property, or more than 300 feet beyond the property boundary of the property from which the noises and/or sounds emanate between the hours of 7:00 a.m. and 11:00 p.m. on Sunday through Thursday and between the hours of 7:00 a.m. and 12 midnight on Friday and Saturday.
 - iv. *Party noise.* It is unlawful for any person or persons in charge of a party or other social event that occurs on any private property to allow that party or social event to produce noise in such a manner that such noise is plainly audible at a distance of 300 feet or more from the property boundary on which the party or social event is located, between the hours of 7:00 a.m. and 11:00 p.m. on Sunday through Thursday and between the hours of 7:00 a.m. and 12:00 midnight on Friday and Saturday. For the purposes of this subsection, a "person in charge of a party or other social event" shall mean any person who resides in or on the premises involved in such party or social event and is present at such party or social event. For the purposes of this subsection, "noise" shall mean the same sounds, or any combination thereof, as described in paragraphs a. or b. above.
- (b) *Restrictions of 100 feet for 11:00 p.m. through 7 a.m. Sunday through Thursday and 12:00 midnight through 7:00 a.m. on Saturday and Sunday.*
- i. *Mechanical sound-making devices.* It is unlawful for any person or persons to play, use, operate, or permit to be played, used, or operated any radio receiving device, television, stereo, musical instrument, phonograph sound amplifier or other machines or devices for the producing, reproducing or amplifying of sound and/or noise at such a volume and in such a manner so as to create, or cause to be created, any noises or sounds which are plainly audible more than 100 feet beyond the property boundary of the property from which the noises and/or sounds emanate between the hours of 11:00 p.m. and 7:00 a.m. on Sunday through Thursday and between the hours of 12:00 midnight and 7:00 a.m. on Saturday and Sunday.
 - ii. *Human-produced sound.* It is unlawful for any person or persons to yell, shout, hoot, holler, whistle or sing on the public streets or sidewalks or on private property so as to create, or cause to be created, any noises or sounds which are plainly

audible more than 100 feet beyond the property boundary of the property from which the noises and/or sounds emanate between the hours of 11:00 p.m. and 7:00 a.m. on Sunday through Thursday and between the hours of 12:00 midnight and 7:00 a.m. on Saturday and Sunday.

- iii. *Commercial advertising.* It is unlawful for any person or persons to use, operate, or permit to be used or operated any radio receiving device, musical instrument, phonograph, loud speaker, sound amplifier or other machine or device for the production or reproduction of sound which is cast upon the public streets or other public property for the purpose of commercial advertising or which serves to attract the attention of the public to any building, structure or vehicle in such a manner so as to create, or cause to be created, any noises or sounds which are plainly audible at a distance of 100 feet or more from the source of the sound cast upon the public streets or other public property, or more than 100 feet beyond the property boundary of the property from which the noises and/or sounds emanate, between the hours of 11:00 p.m. and 7:00 a.m. on Sunday through Thursday and between the hours of 12:00 midnight and 7:00 a.m. on Saturday and Sunday.
- iv. *Party noise.* It is unlawful for any person or persons in charge of a party or other social event that occurs on any private property to allow that party or event to produce noise in such a manner so as to such noise is plainly audible at a distance of 100 feet or more from the property boundary on which the party or social event is located between the hours of 11:00 p.m. and 7:00 a.m. on Sunday through Thursday and between the hours of 12:00 midnight and 7:00 a.m. on Saturday and Sunday. For the purposes of this subsection, a "person in charge of a party or other social event" shall mean any person who resides in or on the premises involved in such party or social event and is present at such party or social event. For the purposes of this subsection, "noise" shall mean the same sounds, or any combination thereof, as described in paragraphs a. or b. above.

Sec. 38-33 Exclusions

The prohibitions of section 38-32 shall not apply to the following:

- (a) Noises and/or sounds caused to be made by manufacturing, governmental, or commercial entities in the normal course of their business;
- (b) Noises or sounds made by domestic animals, which noises or sounds are controlled by Chapter 14 [Animal Control];
- (c) Noises or sounds made by law enforcement and other public safety officials performing their public functions; and
- (d) Organized school and college sporting events or practice, including marching bands.

Sec. 38-34 Time restrictions on use of landscape maintenance motorized devices such as leaf blowers, lawn mowers, or chain saws.

It is unlawful for any person to use or operate any noise-generating, motorized landscape maintenance devices, including but not limited to leaf blowers, lawn mowers, or chain saws, within any residential zoning district or in areas within 300 feet of any residential zoning district from 8:00 p.m. to 8:00 a.m. Monday through Friday or 10:00 p.m. to 8:00 a.m. on the weekends. The time restrictions contained herein shall not apply to the City of Tifton in the conduct of its governmental functions.

Sec. 38-35. Motor Vehicles Sound Volumes

Personal or commercial vehicular music amplification or reproduction equipment, including, but not limited to boom cars, shall not be operated in such a manner as to be plainly audible at a distance of 50 feet in any direction from the equipment.

Sec. 38-36. Sound Volumes Public Right of Ways

Boom boxes, or any similar device, shall not be operated in a public place or public right-of-way in such a manner as to be plainly audible at a distance of 50 feet in any direction from the operator.

Sec. 38-37 Construction noise.

Between the hours of 10 p.m. and 7 a.m. Monday through Friday and 10:00 p.m. to 8 a.m. on the weekends, construction noise of any type, including, but not limited to, noise caused by the erection (including excavation), demolition, alteration, or repair of any building, as well as the operation of any earth-moving equipment, crane, saw, drill, pile driver, steam shovel, pneumatic hammer, hoist, automatic nailer or stapler, or any similar equipment, shall not be plainly audible within any residential zoning district more than 100 feet beyond the property boundary of the property from which the noise emanates.

A variance from the above-referenced hours of operation for construction noise may be requested, in writing, at least 48 hours prior to the proposed construction operation, for consideration by the Director of Environmental Management. Such a request shall state:

- 1) The reasons that support a claim of urgent need based on specific loss or inconvenience for such a variation from the allowable work hours;
- 2) The impact that the denial of this request would have on the applicant's project and the surrounding properties;
- 3) The steps which have been taken by the applicant to communicate those needs and impacts to owners of surrounding and nearby properties;
- 4) The steps that have or will be taken to limit the impact of the proposed activity upon surrounding and nearby properties; and
- 5) The possible risks to public health and safety.

If the Director finds that the application adequately demonstrates the urgent need for a variance from the above allowable work hours, adequately provides for mitigation of the impact upon surrounding and nearby properties, and poses no additional risk to public health and safety, then permission shall be granted for a variance to alter the allowable work hours during one ten-day period.

The prohibitions of this subparagraph shall not apply to government road, water, sewer, storm water construction or maintenance projects or to utility company construction or maintenance projects.

38-38 Commercial Entities located in Commercial Downtown or near Single-Family Residential Zoning Districts.

- (a) Notwithstanding any provisions of this Article concerning noises and/or sounds caused to be made by commercial entities in the normal course of their business, the provisions and prohibitions of Section 38-32, "Prohibited Conduct," subsection (a), concerning "Restrictions of 300 feet for 7:00 a.m. through 11:00 p.m. on Sunday through Thursday and 7:00 a.m. through 12:00 midnight on Friday and Saturday" shall apply to noises and/or sounds generated by a commercial entity that are plainly audible within any single-family residential zoning district or a residence within the commercial downtown zoning district more than 300 feet beyond the property boundary of the property from which the noises and/or sounds emanate.
- (b) Notwithstanding any provisions of this section concerning noises and/or sounds caused to be made by commercial entities in the normal course of their business, the provisions and prohibitions of Section 38-32, "Prohibited Conduct," subsection (b), concerning "Restrictions of 100 feet for 11:00 p.m. through 7:00 a.m. on Sunday through Thursday and 12:00 midnight through 7:00 a.m. on Saturday and Sunday," shall apply to noises and/or sounds generated by a commercial entity that are plainly audible within any single-family residential zoning district or a residence within the commercial downtown zoning district more than 100 feet beyond the property boundary of the property from which the noises and/or sounds emanate.
- (c) Commercial entities allowing music shall be required to keep all doors closed during hours of operation while music is playing except for the ingress and egress of patrons. Doors shall not be propped open or be allowed to remain open.

38-39 Enforcement Procedures

- (a) The city may prosecute noise related violations by issuance of a city ordinance citation, in which case, the penalty for a violation shall be as set forth in Chapter 1 Section 1-11.
- (b) In addition to issuing a fine as provided in Chapter 1 Section 1-11, or in lieu thereof, the municipal court judge may issue an order requiring immediate abatement of any sound source alleged to be in violation of this section.
- (c) No provision of this section shall be construed to impair any common law or statutory cause of action, or legal remedy therefore, of any person for injury or damage arising from any violation of this section.
- (d) A determination of the invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, subsection or part of this Article shall not affect the validity of the remaining parts of this Article.

Secs. 38-40—38-110. - Reserved.

II.

GENERAL REPEALER

To the extent that any other ordinance, portion of an ordinance or resolution of the City of Tifton now in effect is inconsistent with the provisions hereof, the same are repealed.

III.

EFFECTIVE DATE

The effective date of this ordinance shall be the date of adoption hereof.

Read and passed on first reading and adopted at a meeting of the City Council of the City of Tifton held on the 15 day of December, 2016.

Julie B. Smith
Mayor

Approved as to Form:

Attest:

Robert C. Wilmot
City Attorney

Jessica Jones
City Clerk