

**STATE OF GEORGIA**

**TOWN OF TYRONE**

**ORDINANCE**

**NO. 2019-13**

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES FOR THE TOWN OF TYRONE, GEORGIA; TO REVISE PROVISIONS PERTAINING TO NOISE CONTROL; TO PROMOTE THE PUBLIC HEALTH, SAFETY AND WELFARE, AND FOR OTHER PURPOSES.**

**BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF TYRONE AND IT IS HEREBY ENACTED PURSUANT TO THE AUTHORITY OF THE SAME THAT THE CODE OF ORDINANCES OF THE TOWN OF TYRONE AS IT PERTAINS TO OFFENSES AND MISCELLANEOUS PROVISIONS (CHAPTER 28), BE AMENDED AS FOLLOWS:**

**Section 1.** By deleting Section 28-76, pertaining to “Noise”, of Article IV of Chapter 28, in its entirety, and by designating said Section 28-76 as “Reserved”.

**Section 2.** By designating Sections 28-124 through 28-150 of Article VI of Chapter 28 as “Reserved”, and by creating a new Article VII, pertaining to “Noise Control”, in Chapter 28, to be numbered and read as follows:

**ARTICLE VII. NOISE CONTROL.**

**Sec. 28-151. Short title.**

This article shall be known as the Town of Tyrone Noise Control Ordinance.

**Sec. 28-152. Declaration of policy.**

The problem of noise in the Town of Tyrone has been observed by the Mayor and Council and Town staff. It has been documented by complaints in the Town's police department. The Mayor and Council finds that it is necessary to minimize said noise to protect the citizens of the Town from the physiological and psychological dangers of excessive noise and to promote the public health, safety and welfare as well as to control the level of noise in a manner which promotes the use, value and enjoyment of property and the quality of the environment.

**Sec. 28-153. Definitions.**

For purposes of this article, the words, terms and phrases which follow shall have the meanings ascribed to them in this section, unless the context clearly indicates a different meaning. Generally, all definitions in all applicable publications of the American National Standards Institute (ANSI) S1.1-1994, Acoustical Terminology or its successor body shall be applicable.

*Administrator* means the police chief for the Town of Tyrone Police Department.

*Ambient sound level* means the background level of all sound in a given district area independent of the specific source being measured.

*Commercial agriculture* means the production of livestock or agricultural commodities and the offering of the livestock and agricultural commodities for sale.

*Construction* means any site preparation, clearing, grading, assembly, erection, demolition, substantial repair, alteration or similar action taken upon any public or private property or any structure attached hereto.

*Day or daytime*, for the purposes of this article, shall be the hours between 7:00 a.m. and 9:00 p.m. on weekdays and between 9:00 a.m. and 10:00 p.m. on weekends.

*dB(A)* is a unit of measurement which describes the sound level measured, using the "A" weighting scale which reflects the response characteristics of the human ear to sound. Said unit is also known as a decibel.

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

*Equipment* means any stationary, mobile, self-powered, or portable device or any part thereof capable of generating sound.

*Gross vehicle weight rating (GVWR)* means the value specified by the manufacturer as the recommended maximum loaded weight of a single vehicle.

*Impulsive sound* is a sound which has a peak sound level lasting less than one second and which is short compared to the frequency of the sounds occurrence, the onset of the sound is abrupt, the decay is rapid, and the peak value exceeds the ambient level by more than ten dB(A).

*Land use* – the land use categories shown in section 28-154 of this article shall have the meanings ascribed to them in the Town of Tyrone Zoning Ordinance. Residential classification shall include all residential districts defined in the Town of Tyrone Zoning Ordinance, including but not limited to Agricultural Residential (A-R).

The commercial classification shall include all commercial districts defined in the Town of Tyrone Zoning Ordinance. The industrial classification shall include all industrial districts defined in the Town of Tyrone Zoning Ordinance.

*Motor vehicle* means any vehicle which relies on an engine, motor, or similar apparatus for propulsion and is used primarily for transporting persons or property upon land.

*Muffler* means a device designed to dissipate sound emitted by an internal combustion engine, receiving exhaust gas from the engine, or for the purpose of introducing water to the flow of the exhaust gas from the engine.

*Night or nighttime*, for the purposes of this article shall be the hours between and including 9:01 p.m. and 6:59 a.m. on weekdays, and between 10:01 p.m. and 8:59 a.m. on weekends.

*Noise* means the intensity, duration and character of sound from any and all sources.

*Periodic sound* is a sound having a sound level which varies repetitively with a period of one minute or less, which has a peak value of more than five dB(A) above the minimum value.

*Person* means any individual, firm, association, partnership, corporation, company, society, political subdivision, or any other entity, public or private.

*Property* means an interest or aggregate of rights in land which is guaranteed and protected by law including a leasehold interest.

*Property boundary* means an imaginary line along the ground surface and its

vertical extension, which separates the real property of one or more persons from that of others. In the case of separate tenancies or ownerships which share a common wall, floor, or ceiling, the term "property boundary" means the edge of the wall, floor, or ceiling which is on the side of the receiving tenancy or ownership.

*Public disturbance noise* means any sound which, because of its random or infrequent occurrence, is not conducive to measurement under the quantitative standards established in this article and which endangers or injures the safety or health of humans or animals, or endangers or damages personal or real property, or annoys, disturbs or perturbs any reasonable person of normal sensitivities, or is specifically included in those listed in section 28-155.

*Public highway* means the entire width between the right-of-way lines of every roadway publicly maintained by the state or any county or city, when any part of the right-of-way is generally open to the use of the public for purposes of vehicular travel as a matter of right.

*Pure tone component* means sound having the following qualities: A one-third octave band sound pressure level in the band with the tone that exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave bands by five dB for center frequencies of 500 Hz and above, 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. For example, the sound made by a siren often meets the definition of a "pure tone component."

*Receiving property* means property within which sound originating beyond its

property boundary is received.

*Sound* means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause rarefaction of that medium. The description of sound may include any characteristic of such sound, including, but not limited to duration, intensity and frequency.

*Special construction vehicle* means any vehicle which is designed and used primarily for grading, paving, earthmoving, and other construction work; which is not designed or used primarily for the transportation of persons or property on a public highway; and which is only incidentally operated or moved over the highway.

*Temporary construction site* means any location where site clearing, construction of plat improvements, or construction or remodeling of a structure, facility, improvement, or other feature attached to the land occurs including roadway, bikeway, trail, sidewalk, or other similar construction, repair, or improvement.

*Warning device* means any device intended to provide public warning of potentially hazardous, emergency or illegal activities, including but not limited to a burglar alarm or vehicle backup signal, but not including any fire alarm.

*Water craft* means any contrivance powered by an internal or external combustion engine used or capable of being used as a means of transportation or recreation on water. Water craft includes aircraft taxiing on water, but excludes aircraft in the act of actual landing or takeoff.

*Weekday* means any day Monday through Friday which is not a legal holiday as defined by state law.

*Weekend* means Saturday and Sunday or any legal holiday as defined by state law.

**Sec. 28-154. Quantitative standards for sound.**

(a) *Unlawful sounds.* Except as otherwise provided in this article, it shall be unlawful for any person to make, continue or cause to be made or continued, or for any person in possession of property to allow to originate from the property, sound which intrudes into the property of another person and exceeds the maximum permissible sound levels established in this article; or for any person to operate upon any public highway any motor vehicle or any combination of motor vehicles under any conditions of grade, load, acceleration or deceleration in such manner as to exceed the maximum permissible sound levels established in this article for the category of vehicle.

(b) *Maximum permissible sound levels.* Measurement of sound levels from all sources except motor vehicles on public roads, shall be made at or within the property boundary of the receiving property. Maximum permissible sound levels for districts within the Town of Tyrone, expressed in dB(A)'s, are:

|                                | District of Noise Source |            |            |
|--------------------------------|--------------------------|------------|------------|
| District of Receiving Property | Residential              | Commercial | Industrial |
| Residential                    | 55                       | 57         | 60         |
| Commercial                     | 57                       | 60         | 65         |
| Industrial                     | 60                       | 65         | 70         |

(c) *Modifications to maximum permissible sound levels.* The maximum permissible sound levels established in this article are altered by the sum of the increases and reductions in subsections (a) and (b) of this section, and this subsection (c):

- (1) Sounds of short duration may exceed the maximum permissible sound levels by a total of not more than 15 minutes in any one-hour period, when comprised of one or any combination of the following:
  - a. Five dB(A) for a total of 15 minutes;
  - b. Ten dB(A) for a total of 5 minutes; or
  - c. Fifteen dB(A) for a total of 1½ minutes.
- (2) At night, as defined in this article, the maximum permissible sound levels are reduced by five where the receiving property lies within a residential district of the Town, except for sound sources exempted under this article.
- (3) For any source of sound which is periodic, has a pure tone component, or is impulsive, the maximum permissible sound levels are reduced by five dB(A) in addition to the reduction set forth in subsection (b) of this section, at night, as defined in this article, where the receiving property lies within a residential district of the Town, except for sound sources exempted by this article.

(d) *Maximum permissible sound levels for motor vehicles.* Measurement of motor vehicle sound levels shall be made at a distance of 50 feet from the center of the lane of travel at the posted speed limit, by measurement procedures established by the state commission on equipment. Maximum permissible sound levels for motor vehicles,

expressed in dB(A)s, are:

| Vehicle category                                                                   | 35 mph (56 kph) or less | Over 35 mph (56 kph) |
|------------------------------------------------------------------------------------|-------------------------|----------------------|
| Motorcycles                                                                        | 78                      | 82                   |
| Automobiles, light trucks, and all other motor vehicles 10,000 pounds or less GVWR | 72                      | 78                   |
| All motor vehicles over 10,000 pounds GVWR                                         | 86                      | 90                   |

**Sec. 28-155. Specific public disturbance noise prohibitions.**

In addition to the general prohibitions set forth above, it is unlawful for any person to cause, suffer, allow or permit any of the following sounds.

(1) *Sounds occurring at any time of day or night and resulting from the following causes:*

- a. *Animals and birds.* Sounds resulting from the owning, possessing, keeping or harboring of any animal for frequent or for a continued duration, which unreasonably interfere with the peace and comfort of persons in any residential districts, except sounds emanating from farm animals in zones where farm animals are allowed and except the keeping or harboring of animals in commercial kennels, noncommercial kennels, animal shelters, veterinary hospitals, pet shops, and grooming parlors which are operating in conformance

with a valid business license and, where necessary, have obtained a disturbance permit.

- b. *Exhausts.* Sounds resulting from the use of unmuffled exhaust systems on motor vehicles, off-road vehicles and recreational watercraft.
- c. *Vehicle repair in residential areas.* Sounds which are frequent, repetitive or continuous and are made in connection with starting, repairing, operating or testing of motor vehicles, off-road vehicles, or internal combustion engines and in a manner that interferes with the peace and comfort of persons in any residential district.
- d. *Motor vehicle horns.* Sounds resulting from vehicle horns for purposes other than public safety or warning.
- e. *Schools, churches, courts, hospitals, and similar.* Sounds which are loud and raucous and are made within 1,000 feet of any school, institution of learning, church, court, hospital, sanitarium, nursing or convalescent facility, while the same are in use, and which unreasonably interfere with the workings or use of such facility, or which disturb the peace, comfort, or repose of persons therein; provided, conspicuous signs be posted which indicate the nature of the institution.
- f. *Loudspeakers and amplifiers.* Sounds created by the use of any sound amplifier whether mounted upon vehicle or not, for the

purpose of broadcasting, advertising or attracting of attention to relay information to any party about any business or activity, unless a disturbance permit for said sound amplification has been obtained from the Mayor and Council. Ice cream vendors whose sole method of sale is from a moving vehicle shall be exempted from this subsection (1)f.

g. *Instrument.* Sounds created through the use of a musical instrument, sound amplifier, or other device capable of producing or reproducing sound, including but not limited to television and radios, when said sounds are heard as comprehensible music rhythms or felt:

1. Within any residence except the residence from whence the noise originates; or
2. Outdoors in a commercial, or residential district at a distance of 75 feet or more from the noise source. Such sounds include band sessions, automobile sound systems, and electronic sound reproduction equipment whether the source of the sound is stationary, portable, or in a motor vehicle.

h. *Hawkers and peddlers.* Sounds which result from the selling of anything or otherwise attracting or attempting to attract attention for any reason by outcry or use of a drum or other instrument or

devise within residential areas, except at licensed sporting events, parades, fairs, circuses, and other similar public entertainment events which are appropriately licensed.

- (2) *Nighttime sounds in residential districts.* Sounds resulting from the following activities are determined to be public disturbance noises when they occur at night and are received on property in any residential district.
- a. *Tools.* Operation within any residential district of any mechanically powered saw, drill, sander, grinder, blower, fan, garden tool or similar device, except devices engaged in emergency work specifically exempted by this article.
  - b. *Equipment.* Operating or permitting someone to operate any internal combustion powered equipment.
  - c. *Construction.* Construction activity, including blasting, unless a disturbance permit has been obtained.
  - d. *Idling.* The operation or idling, for more than ten minutes at a time, of stationary trucks weighing in excess of 10,000 pounds GVWR, except vehicles engaged in emergency work and specifically exempted from application of this article.
  - e. *Bells.* The sounding of bells, chimes or carillons.
  - f. *Sound production devices.* The creation by use of a musical instrument, whistle, human voice, sound amplifier, or other device capable of producing or reproducing sound, of loud and raucous

sounds which emanate frequently, repetitively or continuously from any building, structure, vehicle or property, such as sounds originating from a band session, automobile sound system or social gathering.

**Sec. 28-156. Exemptions.**

(a) *Sounds exempt at all times.* The following sounds are exempt, at all times, from the maximum permissible sound levels established in this article.

- (1) Sounds originating from aircraft in flight and sounds which originate at airports and are directly related to flight operations.
- (2) Sounds created by the operation of equipment or facilities of surface carriers engaged in interstate commerce by railroad.
- (3) Noises resulting from the use of any emergency equipment and vehicle necessary for law enforcement or for the health, safety and welfare of the community, when said equipment or vehicle is used for these purposes.
- (4) Noises created by safety, protective, and warning devices, where noise suppression would defeat the safety purpose of the device.
- (5) Sounds caused by pigs, cattle, horses, sheep, goats, poultry and similar in agricultural zoning districts where said animals are permitted to be harbored or kept.
- (6) Sounds created by the discharge of firearms in the course of lawful hunting activities in areas where permitted.

- (7) Sounds originating from persons holding a permit for parades and other public events.
- (8) Sounds originating from motor vehicle racing events at existing facilities authorized by the Town.
- (9) Sounds created by construction equipment, including special construction vehicles, at temporary construction sites, provided the receiving property is located in a commercial or industrial district.
- (10) Sounds originating from forest harvesting, silviculture, or commercial agriculture, provided these uses are conducted in compliance with all applicable regulations.
- (11) Sounds created by back-up beepers, provided that at night these sounds shall not be allowed to exceed the noise level necessary to comply with the provisions of this article.
- (12) Activities necessary for clean-up and site protection when weather conditions create an emergency.
- (13) Activity necessary for construction or repair projects, which for reasons of public safety require that the work be done at night, provided that a single neighborhood is not impacted for longer than four weeks and that those persons residing adjacent to the street which is to be worked on shall receive notice of the project at least one week in advance of the beginning of work.
- (14) Sounds created by or incident to the use of a public sporting arena,

stadium or recreation field, which exists incidentally to a school (public or private), or political subdivision and is used for its intended uses.

(b) *Sounds exempt during daytime hours.* The following sounds are exempt, during daytime hours, from the maximum permissible sound levels established in this article.

- (1) Sounds created by construction equipment, including special construction vehicles, at temporary construction sites.
- (2) Sounds created by bells, chimes, or carillons not operating for more than five minutes in any one hour.
- (3) Sounds created by powered equipment which is engaged in temporary or periodic maintenance or repair of residential property.
- (4) Sounds created by the installation or repair of essential utility services.
- (5) Sounds created by the discharge of firearms in zones where allowed or at a rifle range either indoor or outdoor, which is sited, developed and operated in accordance with all laws applicable to such activity.
- (6) Sounds created by aircraft engine testing and maintenance.

(c) *Sounds exempt during nighttime hours.* The following sounds are exempt from the nighttime reduction provisions of this article.

- (1) Sounds originating from electrical substations and transmission lines.
- (2) Sounds originating from stationary equipment used in the conveyance of water by a utility.
- (3) Sounds created by the discharge of firearms by law enforcement or similar organizations during training exercises and in zones where allowed or at a

rifle range either indoor or outdoor, which is sited, developed and operated in accordance with all laws applicable to such activity, or firearm discharge by said organizations in the line of duty.

**Sec. 28-157. Disturbance permits.**

(a) Any person who wishes to obtain an exemption from any provision of this article may apply in writing to the administrator for a disturbance permit. The application shall be accompanied by a fee of \$25.00 and such information and data as the administrator may require including but not limited to reports and documents showing noise levels customarily generated by the proposed activity and proposed means for controlling such noise.

(b) The administrator or his or her designee shall conduct an investigation and make a recommendation to the Mayor and Council within 30 days of the receipt of the application.

(c) Upon consideration of the application and accompanying documentation the Mayor and Council may issue a permit exempting the applicant from the application of the provisions of this article as specified in the permit for a period not to exceed 15 days if the application demonstrates the following:

- (1) The noise occurring or proposed to occur does not endanger public health, safety, or welfare; and
- (2) In considering the relative interests of the applicant, other owners or possessors of property likely to be affected by the noise, and the general

public, the permit is warranted; and

(3) One of the following circumstances is demonstrated:

- a. The activity or noise source is temporary in nature and cannot be accomplished in a manner that would comply with the provisions of this article.
- b. There is no reasonable economic or technological alternative mean, as determined by the Mayor and Council in its sole discretion, currently known or available for the adequate prevention, abatement or control of the noise involved.
- c. Additional time is necessary for the applicant to alter or modify the noise-producing activity in order to comply with the provisions of this article.

(d) When issuing the permit, all conditions regarding the proposed use shall be written on the face of the permit including, but not limited, the effective date, restrictions on time of day, location on the lot, days of the week, and total hours of use per week.

(e) Any permit granted pursuant to this section may be extended upon submission and issuance of a new application for permit for an additional 15 day period, provided good cause is shown.

**Sec. 28-158. Enforcement and appeals.**

(a) *Administrative and enforcement personnel.* The administrator or a person designated by the administrator is authorized and directed to administer and enforce the

provisions of this article including, but not limited to, the conducting of investigation for issuance of disturbance permits. The officers of the police department are authorized and directed to enforce the provisions of this article through citation for violation of the provisions hereof. All Town departments are authorized to assist the administrator in the administration and enforcement of this article.

(b) Whenever the administrator has reason to believe that a violation of any of the provisions of this article, has occurred, the administrator may initiate investigation and/or enforcement action. Enforcement action shall include, at the administrator's discretion, the issuance of a citation for an infraction as defined by this article.

(c) Whenever the police department has reason to believe that a violation of any of the provisions of this article, has occurred, the police department may cause the issuance of a citation for infraction of this article.

(d) Any penalty imposed under the provisions of this article shall conform to the constraints of section 1-7.

**Section 3.** This ordinance shall become effective immediately upon its adoption by the Mayor and Council of the Town of Tyrone.

**Section 4.** All other ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

**Section 5.** In any event any section, subsection, sentence, clause or phrase of this Ordinance

shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect other sections, subsections, sentences, clauses or phrases of this Ordinance, which shall remain in full force and effect as if the section, subsection, sentence, clause or phrase so declared or adjudged invalid or unconstitutional were not a part thereof. The Mayor and Council hereby declares that it would have passed the remaining parts of this Ordinance if it had known that such part or parts hereof would be declared or adjudged invalid or unconstitutional.

SO ENACTED this 5<sup>th</sup> day of December, 2019.

MAYOR AND COUNCIL OF  
THE TOWN OF TYRONE

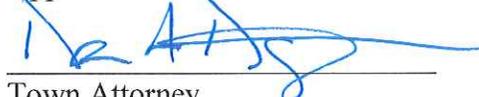
By:   
Eric Dial, Mayor

(SEAL)

ATTEST:

  
Dee Baker, Town Clerk

Approved as to form:

  
Town Attorney