




MEMORANDUM

May 15, 2012

TO: Board of Mayor and Aldermen

FROM: Eric Stuckey, City Administrator 
Shauna Billingsley, City Attorney
Becky Caldwell, Solid Waste Director

SUBJECT: Noise Ordinance amendment – Commercial Dumpster Service Operations and Special Event Permits

Purpose

The purpose of this memorandum is to provide the Board of Mayor and Aldermen (BOMA) with information to consider Ordinance 2012-30: An Ordinance to amend the City of Franklin Municipal Code, Title 11, Chapter 4, Offenses Against the Peace and Quiet relative to Loading and Unloading and Special Event Permits.

Background

At the April 24, 2012 work session, the Board discussed options for amending Title 11, Chapter 4, Offenses Against the Peace and Quiet of the Municipal Code (commonly known as the Noise Ordinance) as it related to commercial dumpster services. Attachment A is the staff report from the April 24th meeting. Based on discussion with the Board, staff is recommending an amendment to the Noise Ordinance that would make two changes:

- 1) Change the permitted hours for dumpster pick-up (“loading and unloading” as stated in the ordinance) from 6 a.m. until 6 p.m. to from 6 a.m. to 9 p.m.
- 2) Grant the City Administrator authority to permit dumpster collection in certain areas and to specific operators outside of the designated hours in defined locations. This permission could be revoked by the City Administrator based on complaints from residents or other concerns.

In addition to these amendments, staff is recommending an amendment related to amplification at approved special events. The current special event permitting process reviews and approves the use of amplification including date, time, and location of amplification. The proposed amendment would prohibit amplification that is not part of the approved special event permit. The proposed amendment states:

In the event that a special event permit has been obtained from the City of Franklin, no other amplification of sound will be permitted within the area of the special event except that which has been applied for and authorized by the City pursuant to the permit application.

This amendment is consistent with the approach taken by the City over the years in working with community organizations in conducting various special events. Attachment B is the proposed ordinance amending the relevant sections of the City of Franklin Municipal Code.

Financial Impact

There is no direct financial impact associated with this ordinance amendment.

Recommendations

Approval of the proposed amendment to the Noise Ordinance is recommended.

Attachment A:

April 24, 2012 Staff Memorandum




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ITEM #12
WRKS 04/24/2012

April 16, 2012

TO: Board of Mayor and Aldermen

FROM: Eric Stuckey, City Administrator 
Russell Truell, Assistant City Administrator/CFO
Becky Caldwell, Solid Waste Director
Shauna Billingsley, City Attorney

SUBJECT: Solid Waste Hours of Operation in Commercial Zones (Noise Ordinance)

Purpose

The purpose of this memorandum is to provide information regarding commercial dumpster collection hours contained within the City's noise ordinance.

Background

Since 1976, the City of Franklin has had in some form a local ordinances pertaining to "Offenses Against the Peace and Quiet," also known as the "noise ordinance." Found in Chapter 4 of Section 11 of the Franklin's Code of ordinances, this ordinance provides guidance for the enforcement of community standards pertaining to the disturbance of the peace through the generation of "ambient noise." In 2011, the Board of Mayor and Aldermen modified elements of this law related to amplified sound. Around this same time, the City responded to some citizen complaints regarding noise caused by the collection of waste from dumpsters during early morning hours. The City's ordinance specifically establishes as a violation the:

Loading, unloading, opening boxes. The creation of a loud and excessive noise in connection with loading or unloading any vehicle or dumpster or the opening and destruction of bales, boxes, crates and containers, particularly other than during the hours between 6:00 a.m. and 6:00 p.m.(Franklin Code of Ordinances 11-404(3) (h))

This portion of the ordinance appears to date back to the original adoption in 1976. Over time, some commercial waste collection companies and the City of Franklin Solid Waste Department had developed a practice of collecting some commercial dumpsters during the early morning hours (prior to 6 a.m.). Upon becoming aware of this situation, the City of Franklin immediately changed its practices to be in compliance with the local ordinance. There were citations given to commercial waste collection companies that continued to collect dumpsters outside of the permitted hours.

The City had some dialog with commercial haulers who expressed a desire to operate during early morning hours in order to maximize efficiency and minimize interaction with other traffic. There were also concerns raised within City staff regarding the safety of collection during more congested traffic times. This prompted a review of the ordinance and a survey of the standards established in other cities for commercial dumpster collection. Attached is a summary of research from noise ordinance specifics for communities throughout the United States, many of these larger and more densely populated than Franklin. Most cities do designate separate restrictions for collection of refuse. Some areas use decibel



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meters for enforcement, some depend on distance from a residential property line and others simply restrict activities within certain hours. A review of these other 15 cities revealed that many cities allow for collection later in the evening than does the City of Franklin (6 p.m.). None of the Cities surveyed permitted pick up of dumpsters earlier than the 6 a.m. standard provided in Franklin's Ordinance.

Another consideration/suggestion has been to consider allowing for extended hours for dumpster collection in commercial areas that are removed from residential areas. This would limit the disturbance of citizens and provide additional hours of operation for waste haulers and the City of Franklin. Based on data in the City's Geographical Information System (GIS), there are approximately 300 commercial parcels located 1,000 feet or more from residential areas, approximately 550 parcels located 500 feet or more from residential areas, and 735 parcels located 300 feet or more from residential properties. The areas with largely commercial-only property are generally concentrated along (6 East, Carothers and in the Cool Springs area. The difficulty of this concept is the ability to adequately define these areas in a way that is both enforceable by our Police Officers and understandable to waste haulers.

Another option for consideration is the granting of authority to the City Administrator to allow specific permission to certain areas to operate outside of the designated hours in defined locations. This permission could be revoked by the City Administrator based on complaints from residents or other concerns. Similar authority is in place now related to construction activity.

The City of Franklin does take safety very seriously. In response to concerns about safety, the City has acted to equip trucks with cameras to improve driver's ability to be aware of vehicles and pedestrians close by. Collection routes have been modified to better manage areas with increased traffic congestion during specific times. Additional procedures for spotting and safety have also been implemented.

Financial Impact

At this time, there is no financial impact associated with this discussion.

Options

Options for Board consideration include:

- 1) Review the information provided and change the existing noise ordinance in relation to hours defined for dumpster collection.
- 2) Maintain the existing noise ordinance with the current time restrictions.
- 3) Provide for additional hours for dumpster collection in "commercial only" areas.
- 4) Grant the City Administrator authority to permit dumpster collection in certain areas to specific operators outside of the designated hours in defined locations. This permission could be revoked by the City Administrator based on complaints from residents or other concerns.

Recommendation

Input for the Board on this issue is requested. Staff would recommend at a minimum expanding the evening hours for collection of dumpsters to 9 p.m. This would make Franklin consistent with Nashville/Davidson County. Other options may require further review and consideration.

Summary of City Regulations Related to Commercial Solid Waste Collection Activities

LOCATION	Population	Time of Noise Restriction	NOISE ORDINANCE NOTES
Mesa, Arizona	464,034	10:00pm until 6:00am	Specifically identify "trash trucks" as examples expected to comply with restriction; also consider noise plainly audible beyond the property line where noise is created as a violation
San Diego, California	1,370,000	7:00pm until 6:00am	Provides a specific section for "Refuse Vehicles and Parking Lot Sweepers"; these activities are restricted in "residential areas" unless a permit is applied for and granted
Boulder, Colorado	97,385	11:00pm until 7:00am	Restricts trash pickup with a compacting mechanism, or the capacity to raise and dump dumpsters in any area zoned for residential or business use during the hours identified; further states no employer shall prevent employees from abiding by this subsection of the ordinance while employee is driving a trash truck, employer is held responsible for violations
Denver, Colorado	2,700,000	10:00pm until 7:00am	No person shall operate any waste stream equipment nor conduct any waste stream activities on any premises adjoining to or across the street or alley from a residential receptor during the hours identified
Atlanta, Georgia Lexington-Fayette Urban County Govt, Kentucky	420,003	10:00pm until 7:00am (weekdays) 11:00pm until 8:00am (weekends)	Time restricted in areas of multi-residential dwellings, residential and "noise sensitive" areas; establishments with plastic lids are exempt; commissioner of public works may grant permission in areas deemed to be a safety hazard
Louisville-Jefferson County Metro Govt, Kentucky	260,512	11:00pm until 7:00am	Restricts noise disturbance across a dwelling unit boundary
Kansas City, Missouri	256,231	10:00pm until 6:00am	Restricts noises relating to collection of refuse between hours identified
Las Vegas, Nevada	459,787	7:00pm until 7:00am	Restricts noises relating to collection of garbage cans or similar objects across a residential real property boundary or within a noise-sensitive zone
Asheville, North Carolina	583,756	11:00pm until 7:00am	Restricts noise in such a manner as to project a noise disturbance across the boundary of any residential real property
Charlotte, North Carolina	83,393	Daylight hours	Restricts refuse collection vehicles to operating during daylight hours
Nashville, Tennessee	731,424	9:00pm until 7:00am	Restricts operation of a front-end loader for refuse collection, within 300 feet of any residentially occupied structure in any zone of the city, to the hours identified above
Cookeville, Tennessee	545,524	9:00pm until 6:00am	Commercial noise based on decibel measurements; no person(s) owning, operating, or having the care, custody, or control of any business or commercial facility shall be permitted to operate any equipment, vehicles, or heavy machinery incident to performing business or commercial functions, or engage in any other business or commercial activity between the hours identified; decibels measured from a point as close as possible to the outside walls of any residential structure located within a residential zoning district affected by noise at a height of 4-feet or above
Knoxville, Tennessee	30,435	10:00pm until 7:00am	Restricts use of motor vehicles for collection and/or compacting of refuse during designated time in a residential use
Lebanon, Tennessee	178,874	10:00pm until 7:00am	Restricts use of motor vehicles for collection and/or compacting of refuse during designated time in a residential use
Franklin, Tennessee	24,812	11:00pm until 7:00am	Restricts loud and excessive noise in connection with loading or unloading of any vehicle during identified hours
Franklin, Tennessee	62,487	6:00pm until 6:00am	The creation of a loud and excessive noise in connection with loading or unloading any vehicle or dumpster or the opening and destruction of bales, boxes, crates and containers, particularly other than during the hours between 6:00 a.m. and 6:00 p.m. is a violation.

Attachment B:

Ordinance 2012-30: An Ordinance to amend the City of Franklin Municipal Code, Title 11, Chapter 4, Offenses Against the Peace and Quiet relative to Loading and Unloading and Special Event Permits.

ORDINANCE 2012-30

TO BE ENTITLED: "AN ORDINANCE TO AMEND THE CITY OF FRANKLIN MUNICIPAL CODE, TITLE 11, CHAPTER 4 OFFENSES AGAINST THE PEACE AND QUIET RELATIVE TO LOADING AND UNLOADING AND SPECIAL EVENT PERMITS."

WHEREAS, the City of Franklin has researched and discovered that many cities nationwide provide for solid waste disposal pickup during daylight hours; and

WHEREAS, the Franklin Municipal Code currently provides that such operations shall only occur during the hours of 6:00 a.m. and 6:00 p.m.; and

WHEREAS, the Board of Mayor and Aldermen of the City of Franklin, Tennessee, wish to authorize additional time for solid waste disposal pickup, and

WHEREAS, the Board of Mayor and Aldermen of the City of Franklin, Tennessee, wish to authorize the City Administrator to grant extensions of time, when requested, for specific locations from time to time in an effort to minimize the impact of solid waste disposal pickup and wish to authorize the City Administrator the authority to revoke such extensions of time at his discretion; and

WHEREAS, the Board of Mayor and Aldermen of the City of Franklin, Tennessee, desire to control amplification within special event areas by the approved special event permit; and

WHEREAS, the Board of Mayor and Aldermen of the City of Franklin, Tennessee, believes it is in the best interest of the citizens of the City to update the existing noise ordinance to address these issues.

NOW, THEREFORE:

SECTION I: BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, Tennessee, that Chapter 4 of Title 11 shall be amended by adding the text shown in **bold** and deleting the text shown in ~~strikethrough~~ as follows:

CHAPTER 4. OFFENSES AGAINST THE PEACE AND QUIET

* * *

11-403. Unnecessary Noise Standard.

* * *

- (3) *Mixed Use Districts*. Amplification of sound located in or within one hundred (100) feet of a residential property line of the Mixed Use Development which is plainly audible is prohibited between the hours of 10:00 p.m. and 7:00 a.m. Sunday through Thursday and between the hours of 11:00 p.m. and 7:00 a.m. Friday and Saturday except for special events where a special permit has been obtained from the City of Franklin authorizing such event. No person shall cause, suffer, allow or permit sound from any sound from any source, sound which is plainly audible in the residential section of the Mixed Use Development between the hours of 10:00 p.m. and 7:00 a.m. Sunday through Thursday and between the hours of 11:00 p.m. and 7:00 a.m. Friday and Saturday. **In the event that a special event permit has been obtained from the**

City of Franklin, no other amplification of sound will be permitted within the area of the special event except for that which has been applied for and authorized by the City pursuant to the permit application.

- (4) Amplification of sound located in or within one hundred (100) feet of a residential property line which is plainly audible is prohibited between the hours of 10:00 p.m. and 7:00 a.m. Sunday through Thursday and between the hours of 11:00 p.m. and 7:00 a.m. Friday and Saturday except for special events where a special permit has been obtained from the City of Franklin authorizing such event. **In the event that a special event permit has been obtained from the City of Franklin, no other amplification of sound will be permitted within the area of the special event except that which has been applied for and authorized by the City pursuant to the permit application.**

11-404. Loud, Unusual or Unnecessary Noises Prohibited; Criteria; Other Prohibited Noises.

* * *

- (3) The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this section, even if the noises referred to do not violate the noise standards set forth in section 11-403 above:

* * * *

- h. *Loading, unloading, opening boxes.* The creation of a loud and excessive noise in connection with loading or unloading any vehicle or dumpster or the opening and destruction of bales, boxes, crates and containers, particularly other than during the hours between 6:00 a.m. and ~~6:00~~ **9:00** p.m. **If the City Administrator should determine that the interest of the public health and safety is not harmed by an extension of this time frame in certain locations he deems appropriate, he may grant permission for such loading and unloading during the hours of 9:00 p.m. to 6:00 a.m. upon application. This permission can be revoked at any time.**

* * * *

SECTION II. BE IT FINALLY ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, Tennessee, that this Ordinance shall take effect from and after its passage on second and final reading, the public health, safety and welfare requiring it.

ATTEST:

CITY OF FRANKLIN, TENNESSEE

BY: _____
ERIC S. STUCKEY
City Recorder/Administrator

BY: _____
DR. KEN MOORE
Mayor

PASSED FIRST READING

PASSED SECOND READING
