HISTORIC
FRANKLIN
TENNESSEE

ITEM #18
WRK S 02/09/10

MEMORANDUM

TO: **The Board of Mayor and Aldermen**
Eric Stuckey, City Administrator

FROM: **Shauna Billingsley, Interim City Attorney**

DATE: **September 22, 2009**

RE: **Noise Ordinance Examples**

This department has been asked to provide information to you on how other municipalities measure noise for purposes of a noise ordinance. This memorandum focuses on the decibel level, if applicable, in the residential areas and focuses on amplification of sound. This memorandum does not focus on sound emanating from vehicle. This department researched the noise related codes for Metro Nashville; Knoxville; Cookeville; Johnson City; Austin, Texas, Louisville, KY; and San Antonio, TX. A synopsis of those codes is below:

- **Metro Nashville:**

The Metro code generally focuses on sound that is **plainly audible** and specifically prohibits amplification of sound that **is plainly audible at a distance of fifty or more feet from the sound** in zones other than CC, CS and those areas contiguous to the CC district. In those zones, prerecorded music is limited to **85 dB(a) inside** the establishment. The Metro code states that "plainly audible" means any sound which clearly can be heard, by unimpaired auditory senses based on a direct line of sight of fifty or more feet, however, words or phrases need not be discernible and said sound shall include bass reverberation. Further, facilities within 50 feet if a residence and/or natural conservation shall permit musical instruments or entertainment devices using amplification outside of the facility only between the hours of 7:00 a.m. and 11:00 p.m. unless otherwise permitted or excluded.

- **Knoxville:**

In **residential** areas between **7:00 a.m. and 12:00 midnight sound at 65 dB(a)** level or an impulsive sound (sound of short duration with abrupt onset and rapid decay) at 80 dB(a) is prohibited. In residential areas between **12:00 midnight and 7:00 a.m. sound at 60 dB(a)** or an impulsive sound at 80 dB(a) is prohibited. In **commercial** areas between **7:00 a.m. and 12:00 midnight sound at 80 dB(a)** or impulsive sound at 80 dB(a) is prohibited. In commercial areas between **12:00 midnight and 7:00 a.m. sound at 75 dB(a)** or impulsive sound at 80 dB(a) is prohibited. In **industrial** areas regardless of time of day sound at **80 dB(a)** is prohibited. Sound is measured at the real property boundary of the source of the sound. There are many exceptions and expressly prohibited sounds to these standards and the code offers a special noise permit to for granting limited exceptions to the standards.

- **Cookeville:**

Cookeville mirrors Knoxville.

- **Johnson City:**

In **residential** areas between **7:00 a.m. and 11:00 p.m. sound at 75 dB(a)** is prohibited. In **residential** areas between **11:00 p.m. and 7:00 a.m. sound at 55 dB(a)** is prohibited. Sound generally is measured beyond the property line of the sound. There are many exceptions and expressly prohibited sounds to these standards and the code offers a special noise permit to for granting limited exceptions to the standards.

• **Austin, TX:**
This ordinance limits noise generally between the hours of **10:30 p.m. and 7:00 a.m**. The standard used is whether the noise is **"reasonably calculated"** to disturb the peace, be unreasonably offensive to the public, or disturb others in the vicinity. **Sound amplification** at a business location or private residence that produced a sound in excess of **85 dB(a) between 10:00 a.m. and 10:00 p.m.** and **80 dB(a) between 10:00 p.m. and 2:00 a.m.** measured at the boundary line of the source of the sound is prohibited. The code provides for a sound amplification permit.

• **Louisville, KY:**
Louisville uses a standard of **"unreasonably loud, harsh, or excessive"** which either **"annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others..."** There is an exception for noise made for protection or preservation of property or the life, health, or safety of a person. Louisville also has a list of per se violations, and a list of exceptions. The ordinance determines a violation through a list of several factors. These factors include volume, intensity, background noise, proximity to residential areas, nature and zoning of the area, population density, time of day, duration of the noise, and whether or not the noise is recurring, intermittent, or constant. **There is no use of a decibel reading or distance from the origin of the noise to determine a violation.**

• **San Antonio, TX:**
This ordinance contains an extensive list of acts that constitute a noise violation. A number of them are determined by a **decibel** reading. The method used to measure is called the Leq Method. Leq is an average measure of continuous noise that has the equivalent acoustic energy of the fluctuating signal over the same time period. **A period of 2 hours is monitored.** The ordinance governs based on the time of day in some instances, the zoning of the property, and corrections are made based on "basic octave band levels" specified. San Antonio also has special noise regulations for its River Walk area. Finally, the ordinance creates "quiet zones." These zones include schools and hospitals and areas within 250 feet of them.

Regardless of the method of establishing a noise ordnance, the ordinance itself must be enforceable. In order to ensure that the ordinance is enforceable, the sufficiency of evidence must be considered. In City of Knoxville v. Harshaw, the defendant challenged the sufficiency of the evidence against him for his violation of the Knoxville noise ordinance. While this memorandum does not focus on sound emanating from vehicles, this case illustrates the importance of the sufficiency of evidence. The Knoxville ordinance makes it a violation for sounds that are "audible to a person of normal hearing sensitivity more than 50 feet from such vehicle" that the sounds emanates from. City of Knoxville v. Harshaw, 2003 WL 21099508, 1 (Tenn. Ct. App.). The officer citing the defendant in this case heard the noise from "at least 100 yards" away.

The defendant challenged the sufficiency of the evidence and asserts that expert testimony is required to define "normal hearing sensitivity." The court found that Knoxville had the burden of proof by a preponderance of the evidence. Harshaw at 2. Knoxville produced evidence that the officer heard the noise from 100 yards away, or six times the required distance. *Id.* The court found that a trial judge, when acting as the trier of fact, need not suspend his common sense. *Id.* In refuting the defendant's argument, the court found that Knoxville's evidence was relevant and no evidence was presented to the contrary. *Id.* Second, the court found it unnecessary to have expert testimony since the natural and ordinary meaning of normal hearing sensitivity is "the hearing ability held by a majority of the population." *Id* at 3. A trial judge using his common sense would conclude that the majority of people could hear the noise in this case from 50 feet away. *Id.*

With a defined level of sound, be it 50 dB(a) or 85 dB(a), our officers will be able to determine, without a doubt, whether or not a violation is occurring.

Reading 1, Oct 6th

Bunganut Pig.
Parked on the Columbia Ave. side in the first parking space behind the fence between the two drive ways. There was no outside activity. The noise meter on setting A fast. I took the reading from 2100 hrs to 2103 hrs. The maximum reading was 76.6 and the minimum reading was 40.4.

Tin Roof 2
I parked in the approximate area of the property line between Tin Roof and Wal-Greens facing Tin Roof. I could not see it but there appeared to be a band on the patio outside as well as customer activity. I took the reading from 2122 hrs to 2125 hrs the maximum reading was 73.9 (however at this point in time a male subject came up to my car and was talking to me) the minimum reading was 41.8.

Both reading were on 10-06-09 (Tuesday). It was lightly raining on and off during both readings. I did have the wind sock in place on the noise reader while taking the readings. The sensor shuts off automatically after 3 min.

Reading 2, October7th

BUNGANUT PIG
Due to calls, I was unable to take a reading at this location on this date.

TIN ROOF
I parked at the stop sign between the CVS and the Tin Roof. There was a band on the outside porch. Readings were only taken from 2220 hrs to 2225 hrs due to call volume. The maximum reading was 78.4 and the minimum reading was 43.2. The night was clear and fairly calm. The wind sock was in place on the noise reader while taking the readings. The manager of the bar came out while I was there. They were taking readings as well. Their readings were consistent with mine.

Reading 3 Oct, 8th

Here are the sound level readings from Tin Roof and Bunganut Pig for October 8, 2009 that you requested.

Buganut Pig	2230 hrs-2235 hrs 56.2 dBA
	2330 hrs-2335 hrs 52.6 dBA
Tin Roof	2100 hrs-2105 hrs 55.2 dBA
	2345 hrs-2350 hrs 51.6 dBA

Reading 4, Oct 9th

Here are the sound level readings from Tin Roof and Bunganut Pig for October 9, 2009 that you requested.

Buganut Pig 1930 hrs-1935 hrs 50.6 dBA
2350 hrs-2355 hrs 47.9 dBA

Tin Roof 2010 hrs-2015 hrs 51.3 dBA
0005 hrs-0010 hrs 56.7 dBA

Reading 5, Oct 10th

Sgt. Legleza,

Here are the sound level readings from Tin Roof and Buganut Pig for October 10, 2009 that you requested.

Buganut Pig 1925 hrs-1930 hrs 45.2 dBA
0000 hrs-0005 hrs 46.1 dBA

Tin Roof 1940 hrs-1945 hrs 54.4 dBA
2340 hrs-2345 hrs 59.9 dBA

Reading 6

Bung-a-Nut Pig, 10-13-2009:

I parked on the Columbia side of the parking lot between the two entry points in the 1st parking space near the gate/brick wall. I calibrated the unit and put on the wind sock. The reading was taken at 2143 hrs on setting A Fast. The reading was taken for 3 minutes Maximum was 74.1 and minimum was 45.6. There was no extra outside activity (i.e. outdoor bands)

Tin Roof 2, 10-13-2009:

I parked on the south side of the parking lot on the border of CVS Pharmacy and Tin Roof. There was no outside activity and no one on the outdoor patio. The noise reading unit was on the same settings as above with the wind sock on. The reading was taken for 3 minutes with a Maximum of 75.8 and a minimum of 51.8.

Reading 7, Oct 14th

For both readings the noise meter was on setting A and Fast. I calibrated the noise meter and placed the wind shield on it before both readings. Both readings were taken for three minutes.

Bung-a-Nut Pig:
I parked on the Columbia side of the parking lot in the first parking space between the two entrances. The reading was taken at 2151 hours.
Minimum – 52.3
Maximum – 65.0
There were people congregated outside the front of the business

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ITEM #4
WRK S 09/08/09

MEMORANDUM

September 8, 2009

TO: Board of Mayor and Aldermen

FROM: Shauna R. Billingsley, Interim City Attorney
Eric S. Stuckey, City Administrator

SUBJECT: Noise Ordinance – Ordinance 2009-55

Purpose
The purpose of this memorandum is to present to the Board of Mayor and Aldermen a revised noise ordinance.

Background
There have recently been complaints from citizens of loud music coming from business establishments around the City. However, our current noise ordinance is outdated and appears to have significant limitation related to enforcement. This proposed revision to the ordinance provides for a stronger, more enforceable noise ordinance under which the City of Franklin Police can issue citations for violations.

Specifically, the revision states that "No person shall cause, suffer, allow or permit sound from any source which, when measured at least fifty (50) feet from the real property boundary of the source of the sound, is in excess of 50 dB(A) between the hours of 10:00 p.m. and 7:00 a.m." in any residential, commercial, or industrial zoning district. Additionally, the revision requires a special permit application to the Board of Mayor and Aldermen for noises that would otherwise be in violation of the ordinance. Any amplification of noise that occurs within one hundred (100) feet of a residential area is prohibited without an approved special permit granted by the Board.

Financial Impact
There is little to no financial impact of this ordinance.

Recommendation
Staff recommends approval of the proposed ordinance as written.

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ORDINANCE 2009-55

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

WHEREAS, it has come to the attention of the Board of Mayor and Aldermen that the current sections of the City of Franklin Municipal Code regarding noise violations are outdated and unenforceable; 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 bring it in line with current technology and to make it more enforceable; and

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 deleted in its entirety and the following substituted in lieu thereof:

CHAPTER 4. OFFENSES AGAINST THE PEACE AND QUIET

11-401. Definitions.

(1) "Ambient noise" means the all encompassing noise associated with a given environment being usually a composite of sounds from many sources, near and far.

(2) "A-weighted sound pressure level" means the sound pressure level in decibels as measured on a sound level meter using the A-weighted network, as defined in American National Standard SI.4-1983 (R 1997). The level so read is designated dB(A).

(3) "City" shall mean the City of Franklin, Tennessee.

(4) "dB(A)" means decibels shown in a reading made on the dB(A) scale.

(5) "Commercial" means and shall include areas of the City of Franklin zoned GO, NC, CC, GC, and CI.

(6) "Decibel" means a unit for measuring the volume of sound, equal to twenty (20) times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is twenty micropascals (twenty (20) micronewtons per square meter).

(7) "Emergence work" means work made necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from any imminent exposure to danger.

(8) "Industrial" means and shall include areas of the City of Franklin zoned LI and HI.

(9) "Person" means any person, person's firm, association, co-partnership, joint venture, corporation or any entity public or private in nature.

(10) "Public premise" means all real property, including appurtenances thereon, which is owned or controlled by any public governmental entity and shall include streets, alleys, parks and navigable waterways, but shall not include any public property leased to any nongovernmental entities.

(11) "Real property boundary" means a line along the ground surface, and its vertical extension, which separates the real property owned by one (1) person or entity from that owned by another person or entity, but not including intrabuilding real property divisions.

(12) "Residential" means and shall include areas the City of Franklin zoned ER, MR, R1, R2, R3, R6, RX, MN, M2, and OR and any subsequent residential or office zone created by ordinance.

(13) "Sound amplification device" means any apparatus for the amplification of sounds from any radiophonograph, band, orchestra or other sound-making or sound-producing device, including any apparatus for the amplification of the human voice.

(14) "Sound pressure" means the average rate at which sound energy is transmitted through a unit area in a specific direction.

(15) "Sound pressure level meter" means an instrument used for measurement of the intensity of sound and accurately calibrated in decibels. Readings shall be made on a dB(A) scale.

(16) All technical definitions are in accordance with the American Standards, S1 1-1960 entitled Acoustical Terminology.

11-402. Disturbing the Peace.

No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control.

11-403. Unnecessary Noise Standard.

(1) *Residential Zoning Districts*. No person shall cause, suffer, allow or permit sound from any source which, when measured at least fifty (50) feet from the real property boundary of the source of the sound, is in excess of 50 dB(A) between the hours of 10:00 p.m. and 7:00 a.m.

(2) *Commercial and Industrial Zoning Districts*. No person shall cause, suffer, allow or permit sound from any source which, when measured at least fifty (50) feet from the real property boundary of the source of the sound, is in excess of 50 dB(A) between the hours of 10:00 p.m. and 7:00 a.m.

(3) Amplification of sound in any outdoor setting located in or within one hundred (100) feet of a residential neighborhood is prohibited except for special events where a special permit has been obtained from the City of Franklin authorizing such event.

(4) Sound, whether continuous or impulsive, shall be measured at approximately five (5) feet above grade, using a slow meter response setting and using a wind screen when appropriate.

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

(1) Consistent with other provisions of this chapter, and in addition thereto, it shall be unlawful for any person within the limits of the City to make, produce, cause, suffer, continue or allow to be produced or continued by human voice, machine, animal, or device, or any combination of same, any unreasonably loud, unusual or unnecessary noise which disturbs the peace and quiet of any neighborhood, or which causes discomfort or annoyance to any reasonable person of normal sensitivity residing in the area, or which otherwise injures or endangers the comfort, repose, health, peace, safety or welfare of others.

(2) *General provisions; tests for unlawful noise.* The standards which shall be considered in determining whether a violation of this section exists shall include, but shall not be limited to, the following:

a. The volume of the noise
b. The intensity of the noise.
c. Whether the nature of the noise is usual or unusual
d. Whether the origin of the noise is natural or unnatural,
e. The volume and intensity of the background noise, if any.
f. The proximity of the noise to residential sleeping facilities.
g. The nature and zoning of the area within which the noise emanates
h. The density of inhabitation of the area within which the noise emanates.
i. The time of the day or night the noise occurs.
j. The duration of the noise.
k. Whether the noise if recurrent, intermittent or constant.
l. Whether the noise is produced by a commercial or non commercial activity.

(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:

a. *Horns, signaling devices, etc.* The sounding of any horn or signaling devise on any automobile, motorcycle, truck or other vehicle on any street or public place of the City except as a danger warning; the creation by means of any such signaling devise of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time. The use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.

b. *Radio Phonographs, live bands, amplifiers, loudspeakers, etc.* The using, operating, or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, live band, amplifiers, loudspeakers, microphones or other machine or device for the producing or reproducing of sound in such a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such live band, machine or devise if operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, live band, amplifiers, loudspeakers, microphones or other machine or device in such manner as to be plainly audible at a distance of 50 feet from the building, structure or vehicle in which it is located and at a dB(a) 50 or more shall be prima facie evidence of a violation of this section, subject to the exceptions listed below.

c. *Amplification.* Amplification of sound in any outdoor setting located in or within 100 feet of a residential neighborhood is prohibited except for special events where a special permit has been obtained from the City of Franklin authorizing such event.

d. *Loudspeakers, amplifiers for advertising.* The using, operating, or permitting to be played, used, or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is broadcast upon the public streets for the purpose of commercial advertising is or attraction the attention of the public to any building or structure.

e. *Yelling, shouting etc.* Yelling, shouting, hooting, whistling, or singing on the public streets, or in the parking lots of commercial business open to the public, particularly between the hours of 9:00 p.m. and 9:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling hotel or other type of residence, or of any persons in the vicinity. If the owner or manager of a commercial enterprise operates his business and is open to the public between the hours of 9:00 p.m. and 9:00 a.m. or at any time on Sunday or holidays, he shall locate his customer parking so his customers and patrons will not violate this chapter. A failure of the owner or manager to so locate his customer parking constitutes a violation of this chapter, when a customer or patron is convicted of violation of this chapter provided the owner or manager permits customer or patron parking within one hundred (100) feet of a residential zone.

f. *Animals, birds, etc.* The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity.

g. *Steam whistles.* The blowing of any locomotive steam whistle or steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper city authorities.

h. *Exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, or other vehicle through a muffler or other device which will effectively prevent loud or explosive noises there from.

i. *Defect in vehicle or load.* The use of any automobile, motorcycle, or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.

j. *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.

k. *Construction or repairing of buildings.* The erection (including excavation), construction, demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, and from 9:00 a.m. to 6:00 p.m. on Saturdays. Work may also begin on Saturdays at 7:00 a.m. if it would not result in any loud, disturbing, or unnecessary noise that would otherwise violate this chapter. City Holidays shall be considered as a Sunday for purposes of this section. If the City Administrator or his designee should determine that the interest of the public health and safety are served, by the erection, demolition, alteration or repair of any building or the excavation of streets or highways within the hours of 9:00 p.m. and 7:00 a.m. and if he shall determine that any loss of inconvenience that might result is outweighed by the public's interest in its safety and welfare, he may grant permission for such work to be done within the hours of 6:00 p.m. and 7:00 a.m. upon application being made at the time the permit for the work is awarded or during the progress of the work.

l. *Schools, courts, churches, hospitals.* The creation of any excessive noise on any street adjacent to any school institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institutions, or which disturbs or unduly annoys patients in the hospital provided conspicuous signs are displayed in such street, indicating the same is a school hospital or court street.

m. *Hawkers, peddlers.* The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.

n. *Drums.* The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance show or sale.

o. *Metal rails, pillars and columns, transportation thereof.* The transportation of rails, pillars or columns of iron, steel or other material, over and along streets and other public places upon carts, trays, cars, trucks, or in any manner so loaded as to cause loud noises or as to disturb the peace of such streets or other public places.

p. *Pile drivers, hammers, etc.* The operation between the hours of 6:00 p.m. and 7:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise.

q. *Blowers.* The operation of any blower or power fan or any combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noises from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.

r. *Noise from motor vehicle audio equipment.* No person shall use or operate any radio, tape player, record player, compact disc player or any similar device in or on a motor vehicle located on the public streets of the City, property owned or leased by the City, or within a public park, within a public parking lot or on any other public premise with the City, which is audible to a person of normal hearing sensitivity more than fifty (50) feet from such vehicle, nor shall any person use or operate any radio, tape player, record player, compact disc player or any similar device in or on a motor vehicle located on private property which is audible to a person of normal hearing sensitivity more than fifty (50) feet outside the real property boundary of said property. Words and phrases need to be discernible for said sound to be "audible."

11-405. Exemptions.

The following uses and activities shall be exempt from noise level regulations:

a. Noises of safety signals, warning devices, and emergency pressure relief valves.

b. Noises resulting from any authorized emergency vehicle, when responding to an emergency call or acting in time of emergency.

c. Noises resulting from emergency work as defined in the Franklin Municipal Code, as amended.

d. Any aircraft operated inconformity with, or pursuant to, federal law, federal air regulations, and air traffic control instruction used pursuant to and within the duly adopted federal air regulations shall be exempt from the provisions of chapter. Any aircraft operating under technical difficulties, in any kind of distress, under emergency orders of air traffic control or being operated pursuant to and subsequent o the declaration of an emergency under the federal air regulations shall also be exempt from the provisions of this chapter.

e. Any vehicle of the City or a public utility while engaged in necessary public business.

f. Excavations or repairs of bridges, streets, or highways by or on behalf of the City, the county, or the state during the night, when the public welfare and convenience renders it impossible to perform such work during the day.

g. Emergency activities of the City, the county or the state and emergency activities of public utilities when they are seeking to provide electricity, water or other public utility services and the public health, safety or welfare is involved.

h. Use of domestic power equipment (including, but not limited to, power lawn mowers, leaf blowers, trimmers, snowblowers, tillers, saws, sanders, drills or similar devices) between 7:00 a.m. and 9:00 p.m.

i. Attendant on-site noise and the playing of instruments connected with the actual performance or practice of organized sporting events or school events held on school campuses and in publicly owned parks or facilities.

j. Human sounds emanating from children including, but not limited to, speech and utterances of laughter, cries and, sounds associated with play.

11-406. Application for Special Permit.

(1) Applications for a special permit for relief from the noise level designated in this section on the basis of undue hardship may be made to the Board of Mayor and Aldermen. Any permit granted by the Board of Mayor and Aldermen herein under shall contain all conditions upon which said permit has been granted and shall specify a reasonable time that the permit shall be effective. The Board of Mayor and Aldermen may grant the relief as applied for, if it finds:

a. That additional time is necessary for the applicant to alter or modify his activity or operation to comply with this section; or

b. The activity, operation or noise source will be of temporary duration, and cannot be done in a manner that would comply with other subsections of this section; and

c. That no other reasonable alternative is available to the applicant; and

d. The Board of Mayor and Aldermen may prescribe any conditions it deems necessary to minimize adverse effects upon the community or the surrounding neighborhood.

(2) Applications for relief from the noise level in this section for the purpose of a public parade, street fair or similar activity and conducted by a public entity, agency or committee thereof may be made to the Mayor or City Administrator. The Mayor and City Administrator are each authorized to issue for said purposes.

11-407. Penalty for Violation.

Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in the amount of fifty dollars ($50.00). Each day such violation is committed or permitted to continue is a separate offense.

11-408. Additional Remedy; Injunction.

As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision hereof and which causes discomfort or annoyance to reasonable persons of normal sensitiveness or which endangers the comfort, repose, health or peace of residents in the area shall be deemed, and is to be, a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

11-409. Severability.

It is the intention of the Board of Mayor and Aldermen that each separate provision of this section shall be deemed independent of all other provisions herein, and it is further the

intention of the Board of Mayor and Aldermen that if any provisions thereof shall remain valid and enforceable.

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:_____
JOHN C. SCHROER
Mayor

PASSED FIRST READING _____

PASSED SECOND READING _____