

ORDINANCE NO. 08-16

**AMENDMENT OF TITLE 11, CHAPTER 4 OF THE
SPRING HILL MUNICIPAL CODE
RELATIVE TO OFFENSES AGAINST THE PEACE AND QUIET**

WHEREAS, the Board of Mayor and Alderman desires to amend the Municipal Code so as to amend Title 11, Chapter 4.

NOW THEREFORE, in consideration of the premises be it hereby ordained by the Board of Mayor and Aldermen that Title 11, Chapter 4 of the Spring Hill Municipal Code Relative to offenses against the peace and quiet is hereby replaced in its entirety as follows:

CHAPTER 4

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-401. Disturbing the peace.

11-402. Unnecessary noise standard.

11-401. Disturbing the peace.

- (1) 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. (1987 Code, § 10-202) .

11-402. Unnecessary noise standard.

- (1) Subject to the provisions of this subsection any loud noise or any noise, which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the limit of the city shall be prohibited.

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this section, but said enumeration shall not be deemed to be exclusive, namely:

- (a) Horns, signaling devices, etc. The sounding of any horn or signaling device 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 device 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, or other machine or device for the producing or reproducing of sound in such 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, device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, live band, machine or device 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. on Friday and Saturday, in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.
- (c) 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 or attracting the attention of the public to any building or structure.
- (d) 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 10:00 P.M. and 7:00 A.M. or at anytime 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 10:00 P.M. and 7:00 A.M. or at anytime 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 the chapter, when a customer or patron is convicted of violation of this subsection (d) provided the owner or manger permits customer or patron parking within one hundred (100) feet of a residential zone.
- (e) 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.
- (f) 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.

- (g) Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, or other vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (h) 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.
- (i) 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.
- (j) 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 Saturday. 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 6:00 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.

- (k) 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 streets, indicating that the same is a school, hospital or court street.
- (l) Hawkers, peddlers. The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.

- (m) 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.
- (n) 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 other manner so loaded as to cause loud noises or as to disturb the peace of such streets or other public places.
- (o) 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.
- (p) Blowers. The operation of any noise-creating blower or power fan or any internal 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.

(2) General provisions: tests for unlawful noise. The standards which shall be considered in determining whether a violation of section 11-402(1) 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 is recurrent, intermittent or constant.
- (l) Whether the noise is produced by a commercial or non-commercial activity.

(3) Decibel provision.

- (a) Definitions. For the purposes of this subsection of this section, certain words and phrases used herein are defined as follows:
 - (i) “Ambient noise” is the all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources, near and far.

- (ii) "A band" level is the total sound level of all noise as measured with a sound level meter using the "A" weighing network. The unit of measurement of the Db(A).
- (iii) "Bel" is a unit of level when the base of logarithm is ten (10). Use of the bel is restricted to levels of quantities proportional to power.
- (iv) "Decibel" is one-tenth (1/10) of a bel and is a unit of level when the base of the logarithm is the tenth root of ten (10) and the quantities concerned are proportional to power.
- (v) "Spectrum" is a function of time and is a description of its resolution into components, each of different frequency and usually of different amplitude and phase and is also used to signify continuous range of components usually wide in extent within which waves have some specified characteristics such as "audio-frequency spectrum" and is also applied to functions of variables other than time.
- (vi) "Sound pressure level" in decibels, of sound is twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of this sound to the reference pressure, which pressure must be explicitly stated.
- (vii) "Band pressure level" of sound for a specified frequency band is the sound pressure level for the sound contained within the restricted bank. The reference pressure must be specified.
- (viii) "Cycle" is the complete sequence of values of a periodic quantity that occur during a period.
- (ix) "Frequency" of a function periodic in time is the reciprocal of the primitive period. The unit is the cycle per unit time and must be specified.
- (x) "Micobar" is a unit of pressure commonly used in acoustics and is equal to one dyne per square centimeter.
- (xi) "Period" of a periodic quantity is the smallest increment of time for which the function repeats itself.
- (xii) "Periodic quantity" is an oscillating quantity, the values of which recur for equal increments of time.
- (xiii) "Sound-level meter" is an instrument including a microphone, an amplifier, an output meter, and frequency weighting

networks for the measurement of noise and sound levels in a specified manner.

- (xiv) "Sound analyzer" is a device for measuring the bandpressure level or pressure spectrum level of a sound as a function of frequency.
- (xv) "Person" is any person, person's firm, association, co-partnership, joint venture, corporation or any entity public or private in nature.
- (xvi) "Emergency work" is 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.

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

(b) Classification of use districts, residential, industrial, commercial.

For the purpose of this section, the reference to "residential" shall include areas of the City of Spring Hill zoned R-1, R-2, R-3, R-4 and R-5 and any subsequent residential or office zone created by ordinance; "commercial" shall include areas of the City of Spring Hill zoned AG, B-1, B-2, B-3, B-4, M-1, M-2 and M-3. It shall be unlawful to project a sound or noise excluding noise emanating from cars, trucks, or motorcycles from one property into another, within the boundary of a use district which exceeds either the limiting noise specter set forth in Table 1 below, or exceeds the ambient noise level by more than three (3) decibels.

- (i) Sound or noise projecting from one use district, into another use district with a different noise level limit, shall not exceed the limits of the district into which the noise is projected.
- (ii) Measurement of noise.

- (A) The measurement of sound or noise may be made with a sound level meter and octave band analyzer meeting the standards prescribed by the American Standards Association. The instruments shall be maintained in calibration and good working order. Octave band corrections may be employed in meeting the response specification. Calibration check shall be made of the system at the time of any noise measurement. Measurements recorded shall be taken so as to provide a proper representation of the noise source. The

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microphone during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used when required. Traffic, aircraft and other transportation noise sources and other background noises shall not be considered in taking measurements except where such background noise interferes with the primary noise being measured.

- (B) The slow meter response of the sound level meter shall be used in order to best determine that the average amplitude has not exceeded the limiting noise spectra set forth in Table 1 below.
 - (C) The measurement shall be made at the property line of the property on which such noise is generated, or perceived, as appropriate, five (5) feet above ground.
 - (D) In case of an elevated or directional sound or noise source, compliance with the noise limits is to be maintained at any elevation at the boundary.
- (iii) The limits hereinabove referred to shall be in accordance with the following table:

TABLE I. LIMITING NOISE LEVELS FOR USE DISTRICTS

Octave band Center frequency Cycles per second	Maximum permissible sound pressure (levels in decibels re 0.0002 microbars)		
	Residential	Use District Commercial	Industrial
Below 75	65	79	80
75-150	60	74	75
150-300	55	66	70
300-600	55	59	64
600-1200	45	53	58
1200-2400	45	47	53
2300-4800	40	41	49
Above 4800	40	49	46

- (iv) If the noise is not smooth and continuous, one or more of the corrections in Table II below shall be added to or subtracted from each of the decibel levels given in Table I of subsection (iii) of this section.

TABLE II. TYPE OF OPERATION IN CHARACTER OF NOISE

[Correction in Decibels]

Noise source operated less than twenty (20) percent of any one-hour period; plus five (5)*

Noise source operated less than five (5) percent of any one-hour period; plus ten (10)*

Noise source operated less than one percent of any one-hour period; plus fifteen (15)*

Noise of impulsive character (hammering, etc.); minus five (5).

Noise of impulsive character (hum, screech, etc.); minus five (5).

*Apply one of these corrections only.

- (v) If the noise occurs between the hours of 10:00 P.M. and 7:00 A.M. on Monday through Saturday or at any time on Sunday or holidays, seven (7) shall be subtracted from each of the decibel levels given in Table I of subsection 3 of this section.

(c) Enclosed places of public entertainment.

- (i) It shall be unlawful to sustain in any enclosed place of public entertainment including but not limited to a restaurant, bar, café, discotheque, dance hall, any amplitude equal to or in excess of 95 dB(A) sustained for more than thirty (30) seconds.
- (ii) Measurement of noise. Such sound or noise is to be measured by a sound level meter approved by the American Standards Association from any area to which the public is invited within any enclosed place of public entertainment.

(d) Noises; aircraft. It shall be unlawful for any person to operate or cause to be operated any type of aircraft over the city which produces noise levels exceeding 87dB(A) within the city.

(e) Exemptions. The following uses and activities shall be exempt from noise level regulations:

- (i) Noises of safety signals, warning devices, and emergency pressure relief valves.
 - (ii) Noises resulting from any authorized emergency vehicle, when responding to an emergency call or acting in time of emergency.
 - (iii) Noises resulting from emergency work as defined in section 10-233(2) (16).
 - (iv) Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit therefore has been granted by the city in accordance with section 10-233(2) (h).³
 - (v) Any aircraft operated in conformity 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 11-402. 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 to the declaration of an emergency under the federal air regulations shall also be exempt from the provisions of 11-402.
 - (vi) Noise resulting from any auction company or service which is lawfully registered to do business within the municipal corporate limits of the City and while operating within reasonable business hours.
- (f) Application for special permit. Applications for a permit for relief from the noise level designated in this section on the basis of undue hardship may be made to the board of zoning appeals. Any permit granted by the board of zoning appeals hereinunder 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 zoning appeals may grant the relief as applied for, if it finds:
- (i) That additional time is necessary for the applicant to alter or modify his activity or operation to comply with this section; or
 - (ii) 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 sections; and
 - (iii) That no other reasonable alternative is available to the applicant; and

- (iv) The board of zoning appeals may prescribe any conditions of requirements it deems necessary to minimize adverse effects upon the community or the surrounding neighborhood.

Applications for a permit for relief from the noise level designated in this section for the purpose of a public parade, street fair or similar activity sponsored 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 a special permit for said purposes.

(4) Penalty for violation.

- (a) 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 an amount not exceeding five hundred dollars (\$500.00). Each day such violation is committed or permitted to continue a separate offense.
- (b) Any person violating any section of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined an amount as provided in paragraph (a), and the judge may require the guilty party to pay the reasonable rental expense of audio equipment and the reasonable expenses for payment to operate the audio equipment in order to detect and prove a violation and the reasonable time of the audio engineer(s) or trained operator(s) provided notice was furnished pursuant to the Spring Hill City Code section 110402(4). This paragraph (b) shall apply only to persons employed and equipment rented by the City of Spring Hill and shall not apply to equipment or persons employed by private citizens.

- (5) Manner of enforcement. Violations of this section shall be prosecuted in the same manner as other misdemeanor violations of the city's code. A written notice of intention to prosecute will be given the alleged violator not less than five (5) calendar days and not more than three hundred sixty (360) calendar days prior to the issuance of a misdemeanor citation or warrant. No citation or warrant shall be issued in the event the cause of the violation is removed, the condition abated or fully corrected within such five (5) day period and not resumed before issuance of the citation or warrant. In the event the alleged violator cannot be located in order to serve the notice of intention to prosecute, the notice as required herein shall be deemed to be given upon mailing such notice by registered or certified mail to the alleged violator at his last known address or at the place where the violation occurred, in which event the five-day period shall commence at the date of the day following the mailing of such notice.

- (6) 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

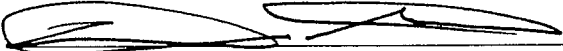
persons of normal sensitiveness or which endangers the comfort, repose, health or peace of residents in the area shall be deemed, and is declared to be, a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

- (7) Separability. It is the intention of the city council 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. (1976 Code, § 10-233)

BE IT FURTHER ENACTED that all ordinances or partial ordinances in conflict herewith be and the same hereby are repealed or modified as the case may be.

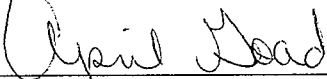
BE IT FURTHER ENACTED that this ordinance shall take effect from and after its adoption the public welfare demanding it.

Enacted this 19th day of February, 2008.



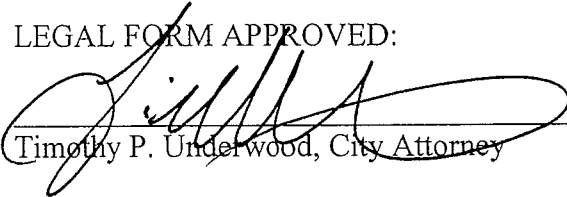
Danny Leverette, Mayor

ATTEST:



April Goad, City Recorder

LEGAL FORM APPROVED:



Timothy P. Underwood, City Attorney

Passed on 1st Reading January 22, 2008

Passed on 2nd Reading February 19, 2008