

ORDINANCE 14-07

AN ORDINANCE TO AMEND THE SPRING HILL MUNICIPAL CODE, TITLE 11, CHAPTER 4, SECTION 11-402, OFFENSES AGAINST THE PEACE AND QUIET OF THE CITY OF SPRING HILL

WHEREAS, the Mayor and Board of Aldermen of The City of Spring Hill desire to make necessary changes to the Offenses Against the Peace and Quiet” Section of the Spring Hill Municipal Code;

BE IT THEREFORE ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF SPRING HILL, TENNESSEE, that Title 11, Chapter 4, Section 11-402, paragraph “j” of the Spring Hill Municipal Code currently reads:

(j) Construction or repairing of buildings. The erection (including excavation), construction, demolition, alteration or repair of 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.

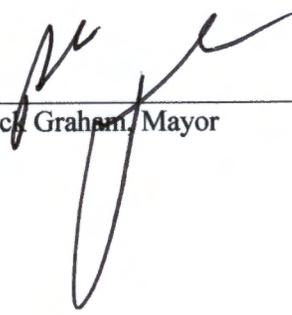
And is hereby amended in its entirety to read:

(j) Construction or repairing of buildings. The erection (including excavation), construction, demolition, alteration or repair of 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. No work shall be performed on New Years, Easter, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas holidays that would result in any loud, disturbing, or unnecessary noise that would otherwise violate this chapter, and shall be considered as a Sunday for purposes of this section. This section shall not apply to homeowners and occupants performing exterior work at or on their principal place of residents after 7:00 A.M. and before 6:00 P.M.

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, outside the hours stated above and if he shall determine that any loss or inconvenience that might result is outweighed by the public’s interest in its safety and welfare, he may grant permission for a permit not to exceed (30) days for such work to be done outside the hours stated above, upon application being made.

BE IT FURTHER ENACTED, that any Ordinances, or parts of ordinances, in conflict herewith are hereby repealed.

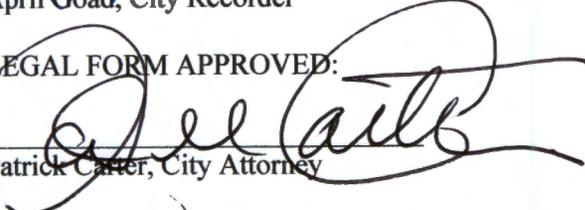
Passed and adopted by the Board of Mayor and Aldermen of the City of Spring Hill, Tennessee on the 21st day of April, 2014.


Rick Graham, Mayor

ATTEST:


April Goad, City Recorder

LEGAL FORM APPROVED:


Patrick Carter, City Attorney

PASSED ON 1ST READING: February 18, 2014

Amended and Deferred on March 17, 2014

Amended on April 21, 2014

PASSED ON 2ND READING: April 21, 2014



To: Spring Hill Board of Mayor and Aldermen
From: Jonathan Duda, Alderman 
Date: April 14, 2014
Re: Ordinance 14-07 (Noise Ordinance Amendment)

At the March 17th, 2014 BOMA Meeting, the BOMA concurred with my motion of deferral of Ordinance 14-07 in order to further consider potential additional amendment to Ordinance 14-07. The purpose of this memo is to provide the board with additional information I have collected since that meeting, and to summarize my recommendation as to how to proceed.

Contents of the Memo are provided in the following Sections:

Section 1) Current posture of Ordinance 14-07

Section 2) Recommended Action

Section 3) Collected Ordinances from Various Communities

Includes: Brentwood, Columbia, Crossville, Cumberland Gap, Fairview, Franklin, Hendersonville, Mount Juliet, Mount Pleasant and Norris

Section 1) Current posture of Ordinance 14-07

First Reading occurred on February 18, 2014. Prior to deferral of Second Reading on March 17, 2014, the BOMA made amendments to address Staff concern that Holidays be defined, and to add a provision for the City Administrator or his designee to grant permission for work to be done *outside* the permissible hours stated in Section J.

Second Reading of the currently amended Ordinance 14-07 is set to occur on Monday, April 21, 2014.

An issue that the board had requested be investigated by staff, which was commented during the meeting which resulted in Deferral, was to verify an Amendment of this section and its applicability to all zones, or whether that Amendment applied exclusively to Commercial Zones.



The current posture of Section (j) in its entirety is as follows (**considered amendments in BOLD**):

*(j) Construction or repairing of buildings. The erection (including excavation), construction, demolition, alteration or repair of 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. **New Years, Easter, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas holidays shall be considered as a Sunday for purposes of this section. Work will be allowed from 10:00 a.m. to 4:00 p.m. on Sundays during the winter and spring months from November 1 to April 30.***

*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, **outside the hours stated above** 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 **outside the hours stated above**, upon application being made at the time the permit for the work is awarded or during the progress of the work.*

Section 2) Recommended Action

After reviewing and considering the sample collected Ordinances from Various Communities, I would recommend that we either remove the prohibition of work on Sundays entirely (if that is the will of the board), or to handle the exemption administratively through Staff action.

There are some interesting provisions in the model codes that I believe deserve some consideration:

1) 30 day permitting process for an exemption – Brentwood, Columbia, Crossville, Cumberland Gap, Fairview and Mount Pleasant all have clearly similar language from a model code that is similar to ours (i.e. they all came from the same place.) Of note though, they provide for a 30 day permitting mechanism:

“...and then only with a permit from the building inspector granted for a period while the emergency continues not to exceed thirty (30) days..”

2) Hendersonville provides for an interesting exemption mechanism:

“...Such activities may be allowed at other times upon written authorization of the Codes Director or his designated agent. Such authorization shall be only granted where such construction activities are necessary for the public health, safety and good of the community.”



3) Mount Juliet provides for an interesting exemption mechanism – provides exemption for homeowners and occupants performing exterior work at or on their principal place of residence:

“...this section [referring to Sunday prohibition of Construction activities] shall not apply to homeowners and occupants performing exterior work at or on their principal place of residence after 7:00 a.m. and before 9:00 p.m.”

My recommendation, pending further consideration by the Board and Staff, is to incorporate the Mount Juliet provision for exemption for principal place of residence, and provide a 30 day permit process administered by Staff that would provide for a hardship to contractors due to weather.

*(j) Construction or repairing of buildings. The erection (including excavation), construction, demolition, alteration or repair of 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. **New Years, Easter, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas holidays shall be considered as a Sunday for purposes of this section. This section shall not apply to homeowners and occupants performing exterior work at or on their principal place of residence after 7:00 A.M. and before 6:00 P.M.***

*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, **outside the hours stated above** 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 a permit not to exceed thirty (30) days** for such work to be done **outside the hours stated above**, upon application being made.*

Section 3) Collected Ordinances from Various Communities

Brentwood

Sec. 42-137. - Miscellaneous prohibited noises enumerated

(8) Building operations. The erection (including excavation), demolition, alteration or repair of any building in any area or the construction or repair of streets and highways in any area, other than between the hours of 7:00 a.m. and dark Monday through Saturday and 9:00 a.m. and dark Sunday, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector granted for a period while the emergency continues not to exceed 30 days.



If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways after dark and before 7:00 a.m. Monday through Saturday or 9:00 a.m. Sunday and if he shall further determine that unreasonable loss or inconvenience would result to any party in interest through delay, he may grant permission for such work to be done during those hours upon application being made at the time the permit for the work is awarded or during the process of the work.

Columbia

11-402. Anti-noise regulations.

(1) (h) Building operations. The erection (including excavation), demolition, alteration, or repair of any building in any residential area or section or the construction or repair of streets and highways in any residential area or section, other than between the hours of 7:00 A.M. and 6:00 P.M. on week days, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector granted for a period while the emergency continues not to exceed thirty (30) days. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways between the hours of 6:00 P.M. and 7:00 A.M., and if he shall further determine that loss or inconvenience would result to any party in interest through delay, he may grant permission for such work to be done between 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 process of the work.

Crossville

11-402. Anti-noise regulations.

(1) (h) Building operations. The erection (including excavation), demolition, alteration, or repair of any building in any residential area or section or the construction or repair of streets and highways in any residential area or section, other than between the hour of 7:00 A.M. and 6:00 P.M. on week days, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector granted for a period while the emergency continues not to exceed thirty (30) days. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building or the excavation of streets and highways between the hours of 6:00 P.M. and 7:00 A.M., and if he shall further determine that loss or inconvenience would result to any party in interest through delay, he may grant permission for such work to be done between 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 process of the work.



Cumberland Gap

11-302. Anti-noise regulations.

(1) (h) Building operations. The erection (including excavation), demolition, alteration, or repair of any building in any residential area or section or the construction or repair of streets and highways, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector granted for a period while the emergency continues not to exceed thirty days. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building or the excavation of streets and highways between the hours of 10:00 PM – 6:59 AM, and if he shall further determine that loss or inconvenience would result to any party in interest through delay, he may grant permission for such work to be done between the hours of 10:00 PM and 6:59 AM upon application being made at the time the permit for the work is awarded or during the process of the work.

Fairview

11-402. Anti-noise regulations.

(1) (h) Building operations. The erection (including excavation), demolition, alteration, or repair of any building in any residential area or section or the construction or repair of streets and highways in any residential area or section, other than between the hours of 6:00 A.M. and 10:00 P.M. on week days, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector granted for a period while the emergency continues not to exceed thirty (30) days. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building or the excavation of streets and highways between the hours of 10:00 P.M. and 6:00 A.M., and if he shall further determine that loss or inconvenience would result to any party in interest through delay, he may grant permission for such work to be done between the hours of 10:00 P.M. and 6:00 A.M. upon application being made at the time the permit for the work is awarded or during the process of the work.

Franklin

Sec. 11-404. Loud, unusual or unnecessary noises prohibited; criteria; other prohibited noises.

(3) (i) 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.

Sec. 11-405. Exemptions.

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.

Hendersonville

11-402. Anti-noise regulations.

(1) (h) Construction Activities. Construction activities, including demolition and street repair, are permitted between the hours of 7:00 a.m. and sunset Monday through Friday and between the hours of 9:00 a.m. and sunset on Saturday and Sunday. Such activities may be allowed at other times upon written authorization of the Codes Director or his designated agent. Such authorization shall be only granted where such construction activities are necessary for the public health, safety and good of the community.

Mount Juliet

Sec. 16-22. Anti-noise regulations

(a) (7) Construction. Exterior construction using hammers, power tools or motor-driven equipment:
a. Between the hours of 9:00 p.m. and 7:00 a.m. in residential areas or between the hours of 9:00 p.m. and 6:00 a.m. in commercial areas; or

b. At anytime on Sunday.

(e) Exempted. Instruments of husbandry used for agricultural purposes, or farming equipment and activities are excluded from the provisions of subsection (a)(8)b of this section and shall not apply to homeowners and occupants performing exterior work at or on their principal place of residence after 7:00 a.m. and before 9:00 p.m.



(f) City manager may suspend enforcement. The city manager, upon his determination that emergency or extraordinary circumstance require, to temporarily suspend the enforcement of this section.

Mount Pleasant

11-302. Anti-noise regulations.

(1) (h) Building operations. The erection (including excavation), demolition, alteration, or repair of any building in any residential area or section or the construction or repair of streets and highways in any residential area or section, other than between the hours of 7:00 A.M. and 6:00 P.M. on week days, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector granted for a period while the emergency continues not to exceed thirty (30) days. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building or the excavation of streets and highways between the hours of 6:00 P.M. and 7:00 A.M., and if he shall further determine that loss or inconvenience would result to any party in interest through delay, he may grant permission for such work to be done between 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 process of the work.

Norris

11-201. Unlawful sound or noise.

(1) (i) Noise producing construction operations. The noisy erection (including excavation), demolition, alteration, or repair of any building or property, in the construction or repair of streets and highways within the city limits during the hours of darkness on week days and Saturdays. An exception can be made in the case of urgent necessity in the interest of public health and safety, and when only with a permit from the building inspector granted or a period while the emergency continues not to exceed thirty (30) days. (For the purposes of this section the hours of darkness is defined as the period of time between thirty minutes after official sunset time and thirty minutes before official sunrise time). If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building or the excavation of streets and highways during the preceding restricted hours, and if he shall further determine that loss or inconvenience would result to any party in interest through delay, he may grant permission for such work to be done during the restricted hours upon application being made at the time the permit for the work is awarded or during the process of the work.

ORDINANCE 13-10

**AN ORDINANCE TO AMEND THE SPRING HILL MUNICIPAL CODE,
TITLE 11, CHAPTER 4, SECTION 11-402, OFFENSES AGAINST THE PEACE AND
QUIET OF THE CITY OF SPRING HILL**

WHEREAS, the Mayor and Board of Aldermen of The City of Spring Hill desire to make necessary changes to the Offenses Against the Peace and Quiet" Section of the Spring Hill Municipal Code;

BE IT THEREFORE ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF SPRING HILL, TENNESSEE, that the following amendments be made to Title 11, Chapter 4, Section 11-402 of the Spring Hill Municipal Code:

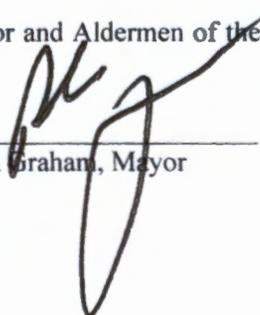
Replacing Paragraph "j" in its entirety to read:

"(j) Construction or repairing of buildings. The erection (including excavation), construction, demolition, alteration or repair of 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.

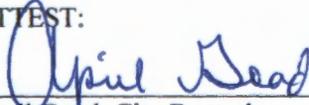
If the city administrator or his designee should determine that the interest of the public health and safety are served, by the erection, demolition, alteration or repair of any building or the excavation of streets or highways, or if he determines the scope of a commercial or industrial project is incapable of being confined 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."

BE IT FURTHER ENACTED, that any Ordinances, or parts of ordinances, in conflict herewith are hereby repealed.

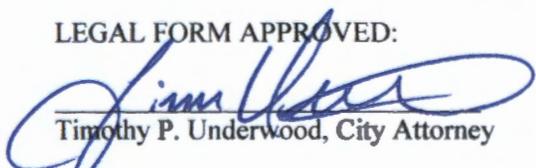
Passed and adopted by the Board of Mayor and Aldermen of the City of Spring Hill, Tennessee on the 20th day of May, 2013.


Rick Graham, Mayor

ATTEST:


April Goad, City Recorder

LEGAL FORM APPROVED:


Timothy P. Underwood, City Attorney

(Deferred on March 18, 2013)

PASSED ON 1ST READING: April 22, 2013

PASSED ON 2ND READING: May 20, 2013