No. 14-O-50
11/13/14
[CH. 21, ART. V; SECTION 7-16(F)]

ORDINANCE 14-O-50 repealing the current version of Chapter 21, Article V of the Murfreesboro City Code in its entirety, and adopting Chapter 21, Article V, regarding Noise Control.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MURFREESBORO, TENNESSEE, AS FOLLOWS:

SECTION 1: Chapter 21, Article V, Noise, of the Murfreesboro City Code, created by Ordinance No. 85-15 which passed on third reading on May 16, 1985, and was subsequently amended by Ordinance Nos. 99-O-42R and 01-O-45, is hereby repealed and deleted.

SECTION 2: The Murfreesboro City Code is hereby amended by adoption of a new Chapter 21, Article V, as specified below with the sections to be numbered sequentially:

ARTICLE V. NOISE CONTROL

SECTION 21-101 DECLARATION OF FINDINGS AND POLICY.

(A) The Murfreesboro City Council finds that:
  (1) Excessive sound and vibration present a serious threat to the public peace, health, welfare, and safety and to the quality of life of persons residing and working in the City;
  (2) Excessive sound and vibration can be abated through the implementation and application of existing technology; and
  (3) The public has a right to and should be ensured an environment free from excessive sound and vibration that may jeopardize the public peace, health, welfare, and safety or degrade the quality of life within the City.

(B) The City Council, therefore, declares that the purpose of the regulations and prohibitions set forth in this Article is to minimize the exposure of citizens to the potential negative physiological and psychological effects of excessive noise, to protect, promote and preserve the public health, safety and welfare, and to achieve these goals in a manner that promotes the use, value, and enjoyment of property, conduct of business, sleep and repose, and reduces unnecessary and excessive sound in the environment.

SECTION 21-102 SCOPE.

This Article shall apply to the control of all sound and vibration originating within the limits of the City of Murfreesboro, Tennessee. This Article is not intended, however, to prohibit any person from engaging in any legitimate and lawful business activity so long as such activity does not unreasonably interfere with the use and enjoyment of surrounding residential and commercial areas.

SECTION 21-103 DEFINITIONS.

(A) All terminology used in this Article not defined below shall be interpreted in accordance with the American National Standards Institute (ANSI) publications entitled "Acoustical Terminology," designated as ANSI/ASA S1.1-2013, and "Sound Level Meters," designated as ANSI S1.4-2014, in effect on the effective date of this Article or as hereafter amended.

(B) The following words shall have the meanings ascribed to them in this Section:
  (1) *A-weighted sound level (dBA)*: The sound level in decibels measured on a sound level meter using the A-weighting network as specified in the latest version of ANSI S1.4-2014 for sound level meters.

(2) *Acoustic Calibrator*: An instrument providing a reference noise source used to calibrate and check the performance of sound level meters.
(3) *Ambient sound level*: The all-encompassing sound level, including the noise source of interest, associated with a given environment, being usually a composite of sounds from many sources, near and far.
(4) *Audible annunciator:* A sound-producing device, such as a bell, siren, whistle, or buzzer, incorporated as part of an emergency signaling device, including, but not limited to, a fire, burglar, tornado, or civil defense alarm system.
(5) *Background sound level*: The sound level in a given environment excluding the noise source of interest.
(6) *City*: The City of Murfreesboro, Tennessee, or the area within the territorial City limits of the City of Murfreesboro, Tennessee, and such territory outside of the City over which the City has jurisdiction or control by virtue of ownership.
(7) *Commercial area*: Any area of the City not located within an Industrial or Residential area, as such areas are defined in this Section.
(8) *Common carrier*: Any person that transports goods or people for any person and offers services to the general public under license or authority provided by a government regulatory body.
(9) *Construction*: Any and all activity necessary or incidental to the erection, demolition, assembling, altering, installing, repair, or equipping of public or private buildings, roadways, or utilities, including land clearing, grading, excavating, drilling, and filling.
(10) *Continuous sound*: Any non-impulsive, non-intermittent sound, including steady, quasi-steady, and fluctuating sounds that exists, essentially without interruption, for a period of five (5) minutes or more.
(11) *C-weighted sound level (dBC)*: The sound level in decibels measured on a sound level meter using the C-weighting network as specified in the latest version of ANSI S1.4-2014 for sound level meters.
(12) *Cyclically varying sound*: Any sound whose sound level fluctuates more than five (5) dBA during a measurement period such that the same level is obtained repetitively at reasonably uniform intervals of time.
(13) *Daytime hours*: 7:00 a.m. to 10:00 p.m., local time.
(14) *Decibel (dB)*: A logarithmic measure used to describe a sound's volume or amplitude, equal to 20 times the logarithm to the base ratio of the pressure produced by a sound wave to a reference pressure, which is 20 micropascals (20 micronewtons per square meter).
(15) *Dwelling unit*: A building or portion thereof intended for and regularly used for residential occupancy.
(16) *Dynamic braking device*: A device used primarily on trucks and buses to convert the motor from an internal combustion engine to an air compressor for the purpose of vehicle braking without the use of a wheel brake.
(17) *Emergency*: Any occurrence or set of circumstances involving actual or imminent physical trauma to a person or persons or damage to property that demands immediate action.
(18) *Emergency work*: Work made necessary to restore property to a safe condition following a disaster or other public calamity, work to restore public utilities, or any other work required to protect persons or property from imminent exposure to danger.
(19) *Equivalent A-Weighted or C-Weighted Sound Level (LeqA or LeqC)*: The constant or "average" sound level that over a specified measurement period conveys the same sound energy as the actual time-varying A- or C-weighted sound levels over the same period. LeqA and LeqC describe a receiver's cumulative sound exposure from all sources over the specified measurement period. .
(20) *Fluctuating or time-varying sound*: A non-steady, non-impulsive sound whose sound pressure level varies significantly but does not equal the ambient level more than once during the period of observation. For purposes of this Article, a sound is a slowly fluctuating sound if its A-weighted sound level measured using the "slow" response on a sound level meter fluctuates more than ± 3 dBA; a sound is a rapidly fluctuating sound if its A-weighted sound level measured using the "fast" response on a sound level meter fluctuates more than ± 3 dBA

(21) *Frequency*: The number of occurrences of a repeating event per unit of time, measured in hertz (Hz), i.e., the number of cycles per second.

(22) *Gross vehicle weight rating (GVWR)*: The value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. For purposes of this Article, in cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded of the combination vehicle shall be used.

(23) *Home improvement service*. The repair, replacement, remodeling, alteration, conversion, modernization, improvement, or addition to any residential property, including, but not limited to, the repair, replacement, remodeling, alteration, conversion, modernization, improvement, or addition to driveways, swimming pools, porches, garages, landscaping, fences, and roofing.

(24) *Impulsive sound*: A sound of short duration usually lasting for less than one second, consisting of a single pressure peak or a single burst (multiple pressure peaks), and characterized by an abrupt onset and rapid decay. Impulsive sounds are generally associated with sources such as explosions, the discharge of firearms, impacts, and certain industrial processes.

(25) *Industrial area*: Any area of the City located within any Industrial District or Planned Industrial District, as established in Section 15 of the Murfreesboro Zoning Ordinance, Appendix A of the Murfreesboro City Code.

(26) *Intermittent sound*: A sound where the sound level meter indicates a sound pressure level equal to the ambient level two or more times during the measurement period; intermittent sounds may be either steady or fluctuating.

(27) *Legal holidays*: January 1, July 4, and December 25, and the days on which Memorial Day, Labor Day, and Thanksgiving are fixed by State law.

(28) *Lot*: Any area, tract or parcel of land owned by or under the lawful control of one distinct ownership. For purposes of this article, abutting "platted lots" under the same ownership are to be considered a "lot."

(29) *Maximum sound level (Lmax)*: The maximum sound level during a measurement period as determined by using a sound level meter set to the "fast" response setting. For purposes of this Article, Lmax may be measured as either an A-weighted or C-weighted sound level.

(30) *Measurement period*: The time interval during which acoustical data are obtained. For purposes of this Article, the measurement period is determined by the characteristics of the noise being measured and must be at least 10 times as long as the response time of the instrumentation. The greater the variation in indicated sound level, the longer the observation time must be for a given expected precision of measurement.

(31) *Motor vehicle*: Any land vehicle that is, or is designed to be, self-propelled and is designed or used for transporting persons or property.

(32) *Motorcycle*: Any motor vehicle that has a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, including a vehicle that is fully enclosed, has three (3) wheels in contact with the ground, weighs less than one thousand five hundred pounds (1,500 lbs.), and has the capacity to maintain posted highway speed limits, excluding a tractor or motorized bicycle, as defined in T.C.A. § 55-8-101.

(33) *Muffler*: A device for abating sound of escaping gases of an internal combustion engine.

(34) *Nighttime hours*: 10:00 p.m. to 7:00 a.m., local time.

(35) *Noise control officer ("NCO")*: An officially designated employee of the City of Murfreesboro, serving in the Police, Building and Codes, or Engineering departments, who has been trained and qualified in the measurement of sound using a sound level meter and who is empowered to issue citations for violations of any section of this Article, including those sections requiring the use of a sound level meter.

(36) *Noise disturbance*: Any sound, excluding all aspects of employer-employee relationship concerning health and safety hazards within the confines of a place of employment, that: (a) injures or endangers the safety or health of humans; or (b) annoys or disturbs a reasonable person of normal sensitivities; or (c) endangers or injures personal or real property.

(37) *Noise-sensitive zone*: Any area or property occupied by a school, public library, courthouse, place of worship, hospital, mental health facility, nursing home, assisted-care living facility, adult day care center, adult day care home, day care center, family day care home, or group day care home.

(38) *Nonconforming use*: A use of structure, building or land which was established as a permitted use and which has been lawfully continued in accordance with the Murfreesboro Zoning Ordinance, but which is not a permitted use in the zone in which it is now located.

(39) *Non-steady sound*: A sound whose sound pressure level fluctuates by more than 3 dB from its mean during the measurement period, as measured using the "slow" response of the sound level meter.

(40) *Off-road vehicle*: Any motor vehicle operated off a public right-of-way.

(41) *Peak Sound Level (Lpk)*: The maximum sound level as measured using the C-weighting scale and peak/impulse settings on the sound level meter.

(42) *Person*: Any individual, association, partnership, limited liability company, corporation, or other entity, including any officer, employee, department, bureau, agency or instrumentality of the United States, a state or any political subdivision of that state, including the City of Murfreesboro.

(43) *Powered unmanned vehicles*: Any self-propelled airborne, waterborne, or land vehicle that is not designed to carry persons, including, but not limited to, any unmanned aerial vehicle (UAV) or any model airplane, boat, car, or rocket.

(44) *Public entertainment venue*: Any location, exterior or interior to a building, including but not limited to a theatre, bar, cafe, restaurant, dance club, or concert venue, that regularly permits public entrance for entertainment purposes.

(45) *Plainly audible sound*: Any sound for which the information content of that sound is unambiguously communicated to the listener, such as, but not limited to, understandable spoken speech, comprehension of whether a voice is raised or normal, repetitive bass sounds, or comprehensible musical rhythms.

(46) *Power tools and equipment*: Any device mechanically powered by electricity, gasoline, diesel fuel, or any other fuel that is intended to be used or is actually used for the performance of cutting, nailing, stapling, sawing, vacuuming, blowing, drilling, sanding, grinding, and similar functions.

(47) *Public right-of-way*: The area on, along, below, or above a public street, roadway, highway, alley, bridge, sidewalk, or waterway that is owned by or controlled by a public governmental entity, including any easement conveying the right to install and maintain public improvements such as overhead and underground power lines, telephone lines, water lines, sewer lines, and drainage facilities including open ditches and storm water sewers and culverts.

(48) *Public space*: Any real property or structures thereon that are owned or controlled by a governmental entity.

(49) *Pure tone*: Any sound that can be heard as single pitch (i.e., frequency) or combination of pitches.

(50) *Quasi-steady sound.* A rapid series of impulsive sounds that has the same effect on a sound level meter as a steady sound.

(51) *Real-property boundary*: (a) An imaginary line along the ground surface, and its vertical extension, separating real property owned by one person from that owned by another person; or (b) the vertical and horizontal boundaries of a dwelling unit that is one in a multi-dwelling building.

(52) *Refuse compacting or collection vehicle.* Any vehicle which is designated to be used or is actually used to compact, collect, and/or transfer refuse, garbage, recyclables, or trash.

(53) *Residential area*: Any area of the City located within any Residential District, Planned Residential District, Planned Unit District, Office District, Medical District Residential, Medical Residential Single Family District, or Park District, or any area located within the City Core, Historic, or Battlefield Protection overlay districts, as established in Section 15 of the Murfreesboro Zoning Ordinance, Appendix A of the Murfreesboro City Code.

(54) *RMS sound pressure (P_{rms}) (effective sound pressure)*: The value obtained when squaring multiple instantaneous sound pressure level measurements at a given point, averaging these over the time of a complete cycle, and taking the square root of this average, expressed in pascals.

(55) *Soft test site*. Any test site having the ground surface covered with grass, other ground cover, or similar absorptive material for ½ or more of the distance between the microphone target point and the microphone location point.

(56) *Sound*: An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that may include any characteristic of such sound, including duration, intensity, and frequency.

(57) *Sound amplification device*: Any device whose primary function is the amplification of sound, live or recorded, including, but not limited to, any musical instrument, loudspeaker, radio, television, digital or analog music player, public address system, or other device or equipment used for the reproduction or amplification of the human voice or other sound.

(58) *Sound level*: The frequency-weighted sound pressure level, measured in decibels, obtained by the use of a sound level meter and measured on a frequency-weighting network, such as A (dBA) or C (dBC), as specified in ANSI S.1-4-2014 "Sound Level Meters." If the frequency weighting employed is not indicated, the A-weighting shall apply.

(59) *Sound level meter*: A sound level measuring device, either Type I or Type II, as defined in the latest version of ANSI S1.4-2104 "Sound Level Meters." For purposes of this Article, a sound level meter must contain at least an A-scale, both fast and slow meter response, and be capable of calculating equivalent A-weighted sound levels.

(60) *Sound pressure*: The instantaneous difference between the actual air pressure and the average or barometric pressure at a given location.

(61) *Sound pressure level (L_p)*: The level of a sound measured in decibels with a sound level meter which has a uniform ("flat") response over the band of frequencies measured; technically, the value obtained by 20 multiplied by the common logarithm (base 10) of the ratio of the measured RMS sound pressure to the reference sound pressure of associated with the threshold of human hearing (20 micropascals).

(62) *Sound reduction device*: Any device, such as a muffler, baffler, shroud, jacket, enclosure, isolator, or dampener provided by the manufacturer with the equipment, or that is otherwise required, that mitigates the sound emissions of the equipment.

(63) *Steady sound*: A sound that remains essentially constant and does not fluctuate by more than plus or minus 3 dB from its means during the measurement period, as measured using the "slow" response of the sound level meter.

(64) *Vibration*: A temporal and spatial oscillation of displacement, velocity, and acceleration in a solid material.

SECTION 21-104 ADMINISTRATION AND ENFORCEMENT.

(A) The Chief of Police and the City's Chief Building Official, or their designees, shall be responsible for administering and enforcing the provisions of this Article. The City Manager may authorize other City departments to assist the Chief of Police and the Chief Building Official in enforcing this Article.

(B) Any Murfreesboro Police Officer shall have the authority to investigate suspected violations of this Article and to pursue enforcement activities in accordance with Code §21-112, provided, however, that only those officers qualified as a Noise Control Officer shall have the authority to enforce sections of this Article requiring the use of a sound level meter.

(C) Any City Codes Inspector shall have the authority to investigate suspected violations of Code §21-106(E) and (I) and Code §21-108(J) and to pursue enforcement activities in accordance with Code §21-112, provided, however, that only those inspectors qualified as a Noise Control Officer shall have the authority to enforce sections of this Article requiring the use of a sound level meter.

(D) The Chief Building Official or designee shall be responsible for administering all other aspects of the noise control program established by this Article and shall have the power to:

(1) Review public and private projects, subject to mandatory review and approval by other City departments, boards, and/or commissions, for compliance with this Article;
(2) Require the owner or operator of any commercial or industrial activity to establish reports and maintain records and make such reports as the Building and Codes Department may reasonably prescribe; and
(3) Require the owner or operator of any commercial or industrial activity to measure, with or without the presence of Building and Codes Department officials, the sound level of or the vibration from any source in accordance with applicable ANSI methods and procedures and at such locations and times as the Building and Codes Department may reasonably prescribe and to furnish reports of the results of such measurements to the Building and Codes Department.

SECTION 21-105 SOUND MEASUREMENT PROCEDURES.

(A) *Sound Measurement Equipment.*
(1) All sound level measurements made by the City pursuant to this Article shall be made using a sound level meter in good operating condition and that meets the requirements of a Type 1 or Type 2 instrument, as described in American National Standards Institute (ANSI) S1.4 2014 "Sound Level Meters", as it exists as of the effective date of this Article or as such requirements are hereafter amended.
(2) Acoustic calibrators used to calibrate a sound level meter should be those recommended by the manufacturer of the sound level meter.
(3) Each sound level meter used in connection with the enforcement and administration of this Article must be recalibrated and the acoustic calibrator must be recalibrated at least once per year by the manufacturer or by a laboratory accredited for such calibrations by either the American Association for Laboratory Accreditation or the National Institute of Standards and Technology. A copy of written documentation of such recalibration shall be kept with the equipment to which it refers.
(B) *Operating conditions during sound measurement.* Insofar as practicable, sound will be measured while the source under investigation is operating at normal, routine conditions and, as necessary, at other conditions including, but not limited to, design, maximum and fluctuating rates.
(C) *General Requirements.* All tests shall be conducted in accordance with the following procedures:
(1) The Noise Control Officer shall, to the extent practicable, identify and document all sources contributing sound to the point of measurement. Prior to taking any noise measurements, the Noise Control Officer shall explore, as is reasonable under the circumstances, the vicinity of the source in question to identify any other sound sources that could affect measurements, to establish the approximate location and character of the principal sound source, and to select suitable locations from which to measure the sound from the source in question.
(2) Except as otherwise provided in this Article, measurements shall be taken at or near the nearest real property boundary of the property receiving the alleged offending sound.
(3) The Noise Control Officer shall conduct an external calibration of the sound level meter using an acoustic calibrator immediately before and after a series of measurements at each test site. The Noise Control Officer shall also conduct a calibration check at least once every hour during the measurement period to ensure continuing accuracy of the meter.
(4) Unless the sound level meter's manufacturer specifications allow adjustments to be made to compensate for the following factors, no outdoor measurements shall be taken:
(a) During periods when the wind speed (including gusts) exceeds 15 miles per hour;
(b) Without a windscreen, recommended by the meter's manufacturer, properly attached to the meter;
(c) Under any condition that would cause the meter to become wet, such as rain, snow, fog, or condensation; or

(d) When the ambient temperature is out of the meter's range of tolerance.

(5) No measurement may be taken on private property without the permission of the owner or the owner's representative or, in the absence thereof, without a search warrant or court order.

(6) During measurement, the meter and microphone must be taken from a distance of at least three (3) feet above the ground or from any reflective surface, including the wall, floor, or ceiling of any structure or any interior room.

(7) When conducting interior sound level measurements, all sound sources within the residence, dwelling unit or other interior space in which the measurement is being taken that can reasonably be discontinued (e.g., television, stereo) shall be discontinued. Exterior doors and windows may be opened or closed, at the discretion of the Noise Control Officer.

(8) If the microphone is handheld, it must held at arm's length and be pointed at the alleged offending sound source at the angle recommended by the meter's manufacturer.

(9) If extraneous sound sources, such as aircraft flyovers or barking dogs that are unrelated to measurements increase the monitored sound levels, the measurements should be postponed until these extraneous sounds have become of such a level as not to increase the monitored sound levels of interest.

(10) The measurement period should be sufficient in length to ensure that the sound levels measured are typical of the source in question. Except when measuring sound levels associated with an impulsive sound, in no event shall the duration of testing be less than one minute.

(11) Notwithstanding the foregoing, when the location or distance prescribed in this Article for measurement of sound is impractical or would provide misleading or inaccurate results, measurements may be taken at other locations or distances using appropriate correction factors specified in this Article or the latest version of ANSI S1.4 2014.

(D) *Equipment Settings.* When using a sound level meter to enforce the provisions of Code §21-106, the Noise Control Officer shall utilize the settings specified below for the specific type of sound being evaluated.

(1) *Non-Impulsive sounds.* Except as set forth otherwise in this Article, the sound level of a sound that is sustained for more than one (1) second at a time and shall be measured using the A-weighting scale and the fast response settings on the sound level meter, unless otherwise specified in the most recent version of ANSI S1.4-2014.

(2) *Measurement of impulsive sounds.* The sound level of an impulsive sound shall be measured using the C-weighting scale and peak/impulse settings on the sound level meter, unless otherwise specified in the most recent version of ANSI S1.4-2014.

(3) *Measurement of sounds with significant low-frequency components.* The sound level of a sound with significant low-frequency components, e.g., certain sound amplification devices and heavy equipment or machinery, in addition to being measured in accordance with subsection (1), may also be measured using the C-weighting scale and the fast response setting on the sound level meter for purposes of establishing compliance with the applicable sound level limits.

(E) *Adjustment for Background Interference*

(1) Wherever possible, the background sound level should be measured at the same location on the receiving property used to measure the alleged offending noise source. Background sound levels shall be taken using the same weighting scale as being evaluated and the fast response setting on the sound level meter.

(2) If the source of interest can be turned off, the Noise Control Officer shall subtracted the background sound level from the measured sound levels of the source(s) of interest (i.e., ambient sound level) by using Table 1 to determine the sound levels from the source(s) of interest alone.

Table 1

Difference between ambient and background levels	**Correction factor to be subtracted from ambient level to determine source level**

3	3
4-5	2
6-9	1
10 or more	0

(3) If the intruding noise source cannot reasonably be discontinued or stopped for a period of time sufficient to allow the measurement of the background sound level, the background sound level may be determined by the decibel reading traveling away from the noise source to a point where a steady-state decibel reading is achieved.

(F) *Reporting Requirements.*

(1) The Noise Control Officer shall complete a report for each measurement session on forms approved by the Chief of Police and Chief Building Official. The report for each measurement session should include such facts as may be necessary to demonstrate that a violation has occurred, including:

(a) The date, day of week, and times at which measurements are taken;

(b) The times of calibration;

(c) The weather conditions, including wind speed and temperature;

(d) The identification of all monitoring equipment by manufacturer, model number, and serial number;

(e) A description and/or sketch of the measurement site, including measurement locations and relevant distances and other information sufficient for another investigator to repeat the measurement under similar conditions;

(f) A description of the sound(s) in question;

(g) The measured sound levels, including the minimum, maximum (or peak), and mean sound levels, measured to the nearest decibel, and duration(s) of the sound(s) in question;

(h) The ambient sound level with the source(s) in question operating and a description of other sound sources contributing to the ambient sound level, if obvious; and

(i) The background sound level without the source(s) in question operating.

(2) Information required to support the issuance of a citation shall be considered sufficient if the data captured by the sound level meter provides such information, and/or such information can be provided by the citation and/or the testimony of the Noise Control Officer taking such readings, and/or such other reports generated by the Noise Control Officer.

SECTION 21-106 SOUND LEVEL LIMITATIONS.

(A) *Unlawful Sound Levels*

(1) It is unlawful for any person to cause sound, or for any person in possession of real or personal property to permit sound originating from such property, to intrude into the real property of another person whenever such sound exceeds the sound level limits established in this Section.

(2) No violation of this Section shall exist if the alleged offending noise source cannot be demonstrated to increase the sound level at the measurement point by at least three (3) dBA over the background sound level, provided, however, that if it is not possible to determine the background sound level, a violation of this Section shall be deemed to exist if the sound level measured while the source is in operation exceeds the applicable maximum sound limits.

(3) Except as otherwise provided in this Section, whenever a violation of this section may be established using the equivalent A-weighted sound level (LeqA) or equivalent C-weighted sound level (LeqC) associated with a sound, the minimum period for taking such measurements shall be at least one (1) minute for steady sounds and fifteen (15) minutes for a non-steady sound (including quasi-steady, intermittent, and fluctuating sounds).

(B) *Exterior Sound Level Limits.*

(1) No person shall cause, suffer, allow, or permit the operation of any sound source within the City in such a manner as to create:

(a) A steady or quasi-steady sound whose sound level exceeds the limits set forth for the receiving land category in Table 2 when measured at or within the real property boundary of the receiving land;
(b) A fluctuating or intermittent sound whose sound level exceeds the limits set forth for the receiving land category in Table 2 for more than 15 minutes in a 60-minute period when measured at or within the real property boundary of the receiving land;
(c) Any sound whose equivalent A-weighted sound level (LeqA) exceeds the limits set forth for the receiving land category in Table 2 when measured at or within the real property boundary of the receiving land;
(d) Any sound whose sound level exceeds the ambient level by at least 10 dBA during daytime hours or by at least 5 dBA during nighttime hours when measured at or within the real property boundary of the receiving land; or
(e) An impulsive sound, occurring less than four times in an hour, whose peak level (Lpk) exceeds 100 dBC during daytime hours or 80 dBC during nighttime hours. Impulsive sounds occurring four or more time in an hour shall be measured as continuous sound and shall be deemed a quasi-steady sound required tom meet the requirements set forth in subsection (a).

Table 2

Receiving Land Use Category	**Time**	**Sound Level Limit (dBA)**	
		Pure Tones, Cyclically Varying Sounds, and Quasi-Steady Sounds	**All Other Sounds**
Residential or Noise-Sensitive Zone	7:00 a.m. to 10:00 p.m.	50	55
	10:00 p.m. to 7:00 a.m.	43	48
Commercial Zone	7:00 a.m. to 10:00 p.m.	60	65
	10:00 p.m. to 7:00 a.m.	53	58
Industrial Zone	7:00 a.m. to 10:00 p.m.	65	70
	10:00 p.m. to 7:00 a.m.	65	70

(2) If a dwelling unit or noise-sensitive zone is located within a nonresidential zone of the City, the nonresidential sound level limit shall normally apply for purposes of enforcing subsection (1) above , unless:
(a) the Murfreesboro Police Department receives a complaint, and
(b) the dwelling unit or noise-sensitive zone predates the noise source, in which case, the sound level limit applicable to the sound complained of shall be:
(i) in a commercial zone, the sound level limit in Table 1 less 5 dBA, regardless of the time of day; and
(ii) in an industrial zone, the sound level limit in Table 1 less 5 dBA between the hours of 7:00 a.m. and 10:00 p.m., and less 10 dBA between the hours of 10:00 p.m. and 7:00 a.m.
(3) The maximum permissible sound level that may be emitted from any lot containing a nonconforming use shall be the same as that permitted for the most restrictive zone in which the use would be conforming.
(4) When a sound source can be identified and its sound measured in more than one zone, each of the appropriate sections shall apply at the boundaries between zones.
(5) When property of the receiver is unoccupied, as in the case of any undeveloped lot, sound levels in excess of those specified herein, shall be considered only as a technical violation of the standard. No citation shall be issued in such

instances, nor is corrective action required to reduce the sound generated by the sound source.

(6) Notwithstanding the provisions of this subsection, where a particular activity, sound source, or device is subject to decibel level limits and requirements specifically prescribed for such activity, source, or device elsewhere in this Article, the decibel level limits set forth in this subsection shall not apply to such activity, sound source, or device.

(C) *Indoor Sound Level Limits Applicable to Multi-Family Dwellings.*

(1) No person shall cause, suffer, allow, or permit the operation of any sound source within a dwelling unit, common area, or utility room of a multi-family dwelling in such a manner as to create a sound whose A-weighted sound level when measured from inside a dwelling unit within the same building exceeds:

(a) the indoor sound level limit specified in Table 3 for a cumulative period of more than 5 minutes in any hour;

(b) the indoor sound level limit specified in Table 3 plus five (5) dBA for a cumulative period of more than one minute in any hour; or

(c) the indoor sound level limit specified in Table 2 ten (10) dBA for any period of time.

Table 3

Time	Sound Level Limit—dB(A)
8:00 a.m. to 8:00 p.m.	45
8:00 p.m. to 8:00 a.m.	40

(2) Notwithstanding the standards set forth in subsection (1), if the measured ambient sound level in the receiving dwelling unit exceeds the sound level limit specified in Table 2, a noise disturbance shall be deemed to exist if the equivalent A-weighted sound level when measured in the receiving dwelling unit exceeds the ambient sound level by ten (10) or more dBA between the hours of 8:00 a.m. and 8:00 p.m., or five (5) or more dBA between the hours of 8:00 p.m. and 8:00 a.m.

(3) Notwithstanding the standards set forth in subsections (1) through (2), above, any sound originating in a multi-family dwelling unit or common area that is plainly audible in another dwelling unit between the hours of 8:00 p.m. and 8:00 a.m. shall constitute prima facie evidence of a violation of this subsection. Evidence establishing that the sound level did not in fact exceed the standards established in subsection (1) through (2) shall constitute an affirmative defense to an alleged violation of this subsection.

(D) *Sound Amplification Devices; Maximum Permissible Increase in Background Sound Level within a Residential Property.*

(1) No person shall cause, suffer, allow, or permit the operation of a sound amplification device in such a manner that the sound emanating therefrom intrudes upon the interior of a residence or dwelling unit and raises the background sound level by more than the permissible sound level limits set forth in Table 4 when measured within the residential property.

Table 4

Week Nights (8:00 p.m. - 8:00 a.m.)	Weekend Nights and Nights Preceding a Legal Holiday (10:00 p.m. – 9:00 a.m.)	All other times
3 dB(C)	3 dB(C)	6 dB(C)

(2) In making sound level measurements for purposes of enforcing this subsection, the Noise Control Officer shall set the sound level meter in accordance with Code § 21-105(D)(3).

(E) *Maximum Sound Levels for Construction Activities.*

(1) No person shall engage in any construction work on private property such that the sound therefrom exceeds an equivalent A-weighted sound level (LeqA) of:

(a) 80 dBA, as measured at or within a residential real property boundary or within a noise-sensitive zone during: (i) on Weekdays, from 6:00 a.m. to 8:00

p.m., during June, July and August; (ii) on Weekdays, from 7:00 a.m. to 8:00 p.m., during all other months; and (iii) on Saturdays, Sundays, and Legal Holidays, from 8:00 a.m. to 8:00 p.m. throughout the year;

(b) 85 dBA, as measured from the commercial or industrial real property boundary of another person or at a distance of 50 feet of the source, whichever is greater, between 7:00 a.m. and 10:00 p.m.; or

(c) the applicable maximum permissible sound levels established in subsection (B) at all other times.

(2) Notwithstanding the limitation on construction activities specified in subsection (1), sounds created on private property by impact-type equipment, including but not limited to pavement breakers, pile drivers, jackhammers, sandblasting tools, or by other types of equipment that create impulsive or impact sound or are used as impact equipment, as measured at the property line on which the construction activity is occurring or at a distance of 50 feet of the source, whichever is greater, may exceed the exterior sound level limits established in subsection (B) between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, and 8:00 a.m. and 6:00 p.m., on Saturday, Sunday, and legal holidays, but in no event may the equivalent C-weighted sound level (LeqC), measured over one (1) minute, exceed 100 dB(C). Equivalent C-weighted sound levels in excess of 100 dBC are prohibited unless authorized by a temporary permit issued by the Chief Building Official. At all times other than the hours specified in this subsection, any sound generated by impact-type equipment shall comply with the sound level limits and time restrictions established in subsection (1).

(3) In addition to the restrictions specified in subsections (1) and (2), no person shall operate or cause to be operated any equipment used for construction work that is not equipped with a sound reduction device at least as effective as that provided by or recommended by the equipment's manufacturer.

(4) The restrictions specified in subsections (1) and (2), above, do not apply to: (i) emergency work; (ii) power tools and equipment used in activities other than construction; and (iii) construction work performed pursuant to a temporary permit issued by the Chief Building Official, or that official's designee, or a variance granted by the Board of Zoning Appeals.

(F) *Power Tools and Equipment.*

(1) Between 7:00 a.m. and 8:00 p.m., no person may operate or cause the operation of any power tool or equipment having an engine rated at five (5) HP or less where the an equivalent A-weighted sound level (LeqA) attributable to that device exceeds 75 dBA, as measured from the real property boundary of another person or at a distance of 50 feet of the source, whichever is greater.

(2) Between 7:00 a.m. and 8:00 p.m., no person may operate or cause the operation of any power tool or equipment having an engine rated at more than five (5) HP where the an equivalent A-weighted sound level (LeqA) attributable to that device exceeds 80 dBA, as measured from the real property boundary of another person or at a distance of 50 feet of the source, whichever is greater.

(3) Between 8:00 p.m. and 7:00 a.m., the use of any power tool or equipment shall be subject to the exterior sound level limits set forth in subsection (B), provided, however, no person engaged in any commercial tree maintenance, landscaping, lawn care, or home improvement service may utilize any power tool or equipment in a residential zone or noise-sensitive zone during such period.

(4) Notwithstanding the standards and restrictions set forth in subsections (1), (2), and (3), if any power tool or equipment is not in good working order, not used for the manufacturer's intended purpose, or not operated in compliance with any required license, then the use of such equipment shall be subject to the exterior sound level limits set forth in subsection (B).

(5) In addition to the restrictions specified in subsections (1), (2) and (3), no person may operate any power tool or equipment without all manufactured-supplied emission control and sound reduction device in proper working order.

(6) This section shall not apply to the use of power tools and equipment in support of construction activities or emergency work, or to the use of snow blowers and snow throwers when operated with a muffler for the purposes of snow removal.

(G) *Motorized Vehicles.*

(1) No person may operate any a public or private motor vehicle or motorcycle on a public right-of-way at any time in such a manner that the maximum sound level

emitted by the motor vehicle or motorcycle exceeds the sound level limits established in Table 6 for a vehicle's class as measured at a distance of 50 feet from the centerline of travel of the highway on which the vehicle is travelling.

(a) The standards in Table 6 shall apply to all noise emitted from motor vehicles, including any and all equipment thereon, under any condition of acceleration, deceleration, idle, grade, or load and regardless of whether in motion.

(b) The standards established in subsection (B) shall apply when a motor vehicle is parked and any vehicle auxiliary equipment is in use.

Table 5

Vehicle Class	Maximum Sound Level Limit—Lmax(A) (measured at 50 feet) [1]		
	Speed Limit		Stationary Run-up
	35 mph or less	Over 35 mph	
Any motor vehicle with a GVWR or GCWR of 10,000 lbs. or more	83 [86]	87 [90]	85 [88]
Street motorcycles other than mopeds	80 [83]	80 [83]	NA
Mopeds	70	70	NA
Off-road motorcycles with engine displacements of 170 cc or lower	80 [83]	80 [83]	NA
Off-road motorcycles with engine displacements greater than 170 cc	82 [86]	82 [86]	NA
Any other motor vehicle	76	82	NA

[1] Numbers in brackets represent limits applicable to vehicles manufactured prior to the 1986 model year for the vehicle type.

(2) Notwithstanding any other provisions of this section or provisions of this Article related to noise disturbances, no person may play, or operate or permit the playing, use, or operation of any sound amplification device located within a motor vehicle being operated or parked on public or private property within the City, including any public or private street or road, in such manner as to violate subsections (B) or (C) or otherwise create a noise disturbance. The operation of any such device in such a manner as to be audible to the human ear at a distance of fifty (50) feet from the vehicle in which it is located shall be prima facie evidence of a violation of this section. If this section is determined to be in conflict with any other section of this Article, this section shall take precedence.

(3) Notwithstanding any other provisions of this Article, no person may operate a motor vehicle, and no owner of any motor vehicle may permit to be operated upon any public road, street, or highway so as to cause any greater noise or sound than is reasonably necessary for the proper operation of such motor vehicle.

(a) No person shall drive a motor vehicle on a public highway unless it is equipped with a muffler or other sound-dissipative device in good working order and in constant operation to prevent excessive or unusual noise.

(b) No person shall operate a motor vehicle on a street or highway with an exhaust system utilizing a cutout, bypass or similar device.

(c) No person shall operate a motor vehicle in such a manner as to cause or allow to be emitted squealing, screeching, or other such noise from the tires in contact with the ground because of rapid acceleration or excessive speed around corners or other such reason, except that noise resulting from emergency action to avoid imminent danger shall be exempt from this provision.

(d) No person shall operate any motor vehicle in excess of 10,000 pounds GCWR, in any residential zone of the City or within 200 feet of any dwelling or noise-sensitive area, with a dynamic braking device engaged except to avoid imminent danger.

(e) No person shall operate any motor vehicle in excess of 10,000 pounds GCWR, in any residential zone of the City or within 200 feet of any dwelling or noise-sensitive area for longer than ten (10) minutes in any hour while the vehicle is stationary for reasons other than traffic between the hours of 10:00 p.m. and 7:00 a.m.

(4) No person shall sound any horn or other auditory signaling device on or in any motor vehicle on any public right-of-way or public space, except as a warning of danger or as otherwise specifically required or permitted by federal or state law. No person shall sound any horn or auditory signaling device that produces a maximum sound level (Lmax) in excess of 90 dBA as measured at 100 feet from the vehicle.

(5) No person may operate or permit the operation of the refuse-compacting mechanism of any motor vehicle where the maximum sound level (Lmax) of the mechanism's compacting cycle exceeds 85 dBA as measured at 10 feet from the loudest part of the vehicle at any time. In addition, no person shall operate a refuse compacting, processing, or collection vehicle for the purposes of compacting or collecting refuse or recycling in, or within 100 feet of, a residential area between the hours of 8:00 p.m. and 6:00 a.m.

(6) No person shall operate and no owner of property shall permit the operation of an off-road recreational vehicle so as to exceed the noise emission standards set forth in Table 7. This section shall apply to all recreational motorized vehicles, whether or not duly licensed and registered, including, but not limited to, commercial or non-commercial racing vehicles, motorcycles, all-terrain vehicles, go-carts, snowmobiles, amphibious craft, campers, and dune buggies.

(H) *Public Entertainment Venues.* No person may operate or allow the operation of any sound amplification device in a public entertainment venue so as to create:

(1) An equivalent C-weighted sound level (LeqC) in excess of 65 dBC between 7:00 a.m. and 10:00 p.m., or 50 dBC between 10:00 p.m. and 7:00 a.m., as measured from anywhere within the boundary line of the nearest occupied dwelling unit or noise-sensitive zone; or

(2) A maximum sound level (Lmax) in excess of 95 dBA at any time, as measured from any point within the venue normally occupied by a customer or patron, without a conspicuous and legible sign located outside such venue, near each entrance, stating: "WARNING! SOUND LEVELS WITHIN MAY CAUSE HEARING IMPAIRMENT."

(I) *Immediate Threat to Health and Safety*:

(1) The Chief of Police or Chief Building Official may order an immediate halt to any sound that exposes any person, except those excluded under subsection (2), to non-impulsive sound levels in excess of those shown in Table 6 or to impulsive sound levels in excess of those shown in Table 7. If the sound has not abated within a reasonable length of time following issuance of such an order, the issuing officer may apply to the appropriate court for an injunction to replace the order or may treat the violation in the manner of other violations of this Article.

(2) No order shall be issued if the only persons exposed to sound levels in excess of those listed in Tables 6 or 7 are exposed as a result of:

(a) Trespass;

(b) Invitation upon private property by the person causing or permitting the sound; or

(c) Employment by the person or contractor of the person causing or permitting the sound.

(3) Any person subject to an order issued pursuant to subsection (1) shall comply with such order until:

(a) The sound is brought into compliance with the order as determined by the issuing officer; or

(b) A judicial order has superseded such order.

Table 6

Sound Level Limit (LeqA)[1]	Duration
90 dBA	24 hours
93 dBA	12 hours
96 dBA	6 hours
99 dBA	3 hours
102 dBA	1.5 hours
105 dBA	45 minutes
108 dBA	22 minutes
>110 dBA	Any period of time

[1] For any source of sound that emits a pure tone, the maximum sound level limits shall be reduced by five (5) dBA.

Table 7

Sound Level Limit (Lpk)	Number of Repetitions per 24-Hour Period
140 dBC	1
130 dBC	10
120 dBC	100 or more

SECTION 21-107 PROHIBITION OF NOISE DISTURBANCES.

(A) Consistent with and in addition to the restrictions set forth in Code §21-106, no person may willfully or negligently make, continue, or cause to be made or continued any noise disturbance within the City.

(B) The factors to be considered in determining whether a violation of this section exists shall include, but shall not be limited to, the following:

(1) How frequently the sound occurs;
(2) The intensity, and if measurement, the sound level, of the alleged noise disturbance;
(3) Whether the nature of the noise is usual or unusual for the surrounding area;
(4) Whether the origin of the noise is natural or unnatural;
(5) The ambient sound level;
(6) The proximity of the alleged noise disturbance to residential sleeping facilities;
(7) The nature and zoning of the area within which noise emanates;
(8) The number of persons affected by the noise source;
(9) The time of day or night the noise occurs;
(10) The duration of the noise and its tonal quality; and
(11) Whether the noise is recurrent, intermittent, or constant.

SECTION 21-108 UNLAWFUL NOISE PRODUCING ACTIVITIES.

Notwithstanding the sound pressure levels permitted pursuant to Code §21-106, the following noise producing activities, and the causing and permitting thereof, are declared to be noise disturbances in violation of this Article.

(A) *Musical Instruments, Drums, Televisions, and Other Sound Amplification Devices.*

(1) No person may use, play or permit the use or playing of any musical instrument, drum, television, or other sound amplification device:
(a) Between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible across a real property boundary of the nearest occupied dwelling or in a noise-sensitive zone;
(b) In such a manner so as to be plainly audible at a distance of fifty (50) feet on a public right-of-way or on public property; or
(c) In such a manner as to create a noise disturbance or to be plainly audible to any person other than the operator of the device, when such device is operated by a passenger on a common carrier.

(2) This provision shall not apply to non-commercial speech subject to regulation under subsection (B)(1) of this section or to vehicle sound systems.

(B) *Loudspeakers, Public Address Systems and Similar Devices.*

(1) *Non-commercial Purposes.* Except as otherwise permitted by this Article, no person may use or operate any loudspeaker, public address system, or similar device for any non-commercial purpose: (a) between the hours of 10:00 p.m. and 7:00 a.m. such that the sound therefrom is plainly audible across a residential real property boundary or in a noise-sensitive zone; or (b) at any other time exceeds the applicable maximum permissible sound level established in Section 21-106(B) for the receiving land category.

(2) *Commercial Purposes.* Except as otherwise permitted by this Article, no person may use or operate any loudspeaker, public address system, or similar device for any commercial purpose: (a) between the hours of 10:00 p.m. and 7:00 a.m. in a residential or noise-sensitive area, on a public right-of-way, or on public property; (b) between 7:00 a.m. and 10:00 p.m. such that the sound therefrom is plainly audible across a real property boundary in a residential or noise-sensitive zone or at a distance of 100 feet on public property or on or along a public right-of-way; or (c) at any other time such that the sound therefrom exceeds the applicable maximum permissible sound level established in Section 21-106(B) for the receiving land category.

(3) This subsection shall not apply to:

(a) any activity or noise source for which a permit has been granted by the appropriate official, board, or commission of the City or county government; or

(b) the use of a loudspeaker, public address system, bullhorn, or similar device by a government official or employee in connection with the performance of the individual's official duties.

(C) *Animals and Birds.*

(1) Any person who owns, possess, or harbors any animal shall violate this Article if such animal barks, howls, whines, meows, squawks, or makes any other like sound continuously for more than ten (10) minutes or intermittently for more than twenty (20) minutes, where such sound is plainly audible from a distance of 100 feet or more from the animal or where such sound unreasonably disturbs the peace. This provision is not applicable to livestock or any animals kept in a kennel or similar facility, wherein the presence of livestock or the operation of a kennel or similar facility is authorized under the applicable land-use and zoning laws and regulations.

(2) It shall be an affirmative defense to alleged violation of subsection (1) that the dog or other animal: (a) was responding to an emergency or to a trespasser on the property of the person owning, possessing, or harboring the animal; or (b) was intentionally proved by a person other than a person owning, possessing, or harboring the animal.

(3) Any person keeping livestock or operating a kennel or similar facility shall violate this Article by permitting animals located at a facility owned or operated by such person to make any sound that causes unreasonable annoyance and that may be heard across a real property boundary in a residential zone or a noise-sensitive zone under conditions wherein the animal sounds are shown to have occurred continuously for more than ten (10) minutes or intermittently for more than twenty (20) minutes.

(D) *Delivery and Pick-up Activities.* No person may load or unload a vehicle, or open, close, or otherwise handle any box crate, bale, container, building materials, garbage cans, or similar objects between the hours of 10:00 p.m. and 7:00 a.m., in such a manner as to create a noise disturbance across a real property boundary in a residential zone or noise-sensitive zone.

(E) *Explosives, Firearms, and Similar Devices.*

(1) No person may use or fire any explosive any explosive, firearm, or similar device an impulsive sound between the hours of 10 p.m. and 7:00 a.m. without first obtaining a permit pursuant to Code §21-110.

(2) No person may use or fire any explosive, firearm, or similar device that creates an impulsive sound so as to cause a noise disturbance across a real property boundary in a noise-sensitive zone, in a public space, or on a public right-of-way at any time without first obtaining a permit pursuant to Code §21-110.

(3) This subsection (G) shall not apply to:
(a) the setting off fireworks otherwise permitted under any other provision of the City Code;
(b) game hunting on property where such activities are authorized by law;
(c) construction activities permitted under Code §21-106; or
(d) shooting ranges.

(F) *Powered Unmanned Vehicles.* No person may operate or permit the operation of a powered unmanned vehicle so as to create a noise disturbance across a real property boundary in a residential zone or noise-sensitive zone at any time.

(G) *Vibration.* No person may operate or permit the operation of any device that creates vibration that is above the vibration perception threshold of two or more reasonable individuals of normal sensitivity situated beyond the property of the source if the source is on private property or 150 feet from the source if such source is in a public space or public right-of-way. For purposes of this section, "vibration perception threshold" means the minimum ground or structure-borne vibratory motion necessary to cause a reasonable person of normal sensitivity to be aware of the vibration by such direct means as, but not limited to, sensation or the observation of moving objects. This subsection does not apply to vibration created by railroad vehicles used in interstate commerce.

(H) *Emergency Signaling Devices.*
(1) No person may intentionally sound or permit the sounding outdoors of any alarm, siren, whistle, or other audible annunciator associated with an emergency signaling device, except for emergency purposes or for testing as provided in subsection (b) below.
(2) Testing of a stationary emergency signaling device shall not occur before 7:00 a.m. or after 8:00 p.m. Any such testing shall use only the minimum cycle test time, and in no case shall such test exceed 60 seconds.
(3) All non-governmental emergency signaling devices shall be programed so that the device's audible annunciator will automatically be silenced within fifteen minutes after being activated and so that it will not sound again unless a new act or circumstance triggers the system.

(I) *Stationary Non-Emergency/Non-Safety Signaling Devices.* No person may sound or permit the sounding of any electronically amplified signal or sound from any stationary bell, chime, siren, whistle, speaker, or similar device, intended primarily for non-emergency or non-safety purposes from any place between the hours of 10:00 p.m. and 7:00 a.m. or for more than five (5) minutes in any hourly period between the hours of 7:00 a.m. and 10:00 p.m.

(J) *Noise-sensitive zones.*
(1) No person shall create or cause the creation of any sound within any noise-sensitive zone designated in Code §21-103 or otherwise designated by the City Manager in a manner that unreasonably interferes with or disrupts the activities normally conducted within the zone, provided that conspicuous signs are displayed indicating the presence of the zone.
(2) No person shall create or cause the creation of any sound within any noise-sensitive zone designated in Code §21-103 or otherwise designated by the City Manager in a manner that disturbs or annoys the patients or residents in any hospital, nursing home, or similar facility, provided that conspicuous signs are displayed indicating the presence of the zone.
(3) Helicopters operated by law enforcement or in connection with the provision of emergency medical services are exempt from the restrictions of this subsection (K).

(K) *Yelling, Shouting, Whistling, or Singing.* No person may shout, whistle, or sing on a public right-of-way or in a public space between 10:00 p.m. and 7:00 a.m. or in such a manner as to cause a noise disturbance in a residential zone or noise-sensitive zone at any other time so as to cause a noise disturbance.

(L) *Street Sales.* No person may yell, shout, or cry in connection with hawking, peddling, or otherwise advertising or selling goods or services in a residential area or noise-sensitive zone at any time, or in a commercial area between the hours of 10:00 p.m. and 7:00 a.m.

(M) *Tampering.* No person may remove or render inoperative, other than for purposes of maintenance, repair, or replacement, any noise control device or element thereof, any product required to meet specified noise emission limits under federal, state, or

local law, or use any item after its noise control device has been removed or rendered inoperative, other than for purposes of maintenance, repair, or replacement.

SECTION 21-109 EXEMPTIONS.

(A) *General Exemptions.* The following activities and sounds are exempted from the sound level limitations established in Code §21-106 without regard to when or where the activity or sound occurs:
  (1) Any emission of sound for the purpose of alerting persons to the existence of an emergency, danger, or attempted crime, including any such sound emitted from a stationary signaling device or any police vehicle, fire and rescue vehicle, or ambulances;
  (2) Any emission of sound caused by the performance of emergency work, or by the ordinary and accepted use of emergency apparatus and equipment;
  (3) Sounds generated by emergency pressure relief valves;
  (4) All activities located on the campus of Middle Tennessee State University; and
  (5) Sounds caused by sources regulated as to sound production by federal law, including, but not limited to, any aircraft operated in conformity with, or pursuant to federal law, Federal Aviation Administration regulations, and the instructions of an air traffic controller. Any aircraft operating under technical difficulties, in any kind of distress, under emergency order of air traffic control, or being operated pursuant to and subsequent to the declaration of an emergency under Federal Aviation Administration regulations shall also be exempt from the provisions of this Article.

(B) *Limited Exemptions.* The following sounds and activities are exempted from the sound level limitations established in Code §21-106, excluding Code §21-106(I), during the times and under the circumstances specified below:
  (1) Sound emanating from athletic, musical, or cultural activities or events (including practices and rehearsals) conducted by or under the auspices of any public or private school, college or university, other than Middle Tennessee State University, between 7:00 a.m. and 11:00 p.m.;
  (2) Any unamplified bell, chime, or carillon from any building clock, school, or place of worship, between 7:00 a.m. and 10:00 p.m., provided such bell, chime, or carillon is not sounded for more than five (5) minutes in any one-hour period;
  (3) Sounds caused by farm operations subject to the Tennessee Right-to-Farm Act, Tenn.Code Ann. §§ 43-26-101 et seq.;
  (4) Organized firework displays conducted under the supervision of a licensed expert and with the written authorization of the City's Fire Chief or the Chief's designee; and
  (5) Human sounds emanating from children twelve (12) years of age or under, including, but not limited to, speech and utterances of laughter, cries, and sounds associated with play.

SECTION 21-110 TEMPORARY PERMITS AND VARIANCES.

(A) Application for Variance to the Board of Zoning Appeals.
  (1) The Board of Zoning Appeals is authorized to grant relief in the form of a variance to any person from the maximum permissible sound levels established in Code §21-106 if the Board finds that such relief is in the public interest or if the strict application of such sound levels would create an undue hardship on the person seeking relief and there is no reasonable and prudent alternative method for engaging in the activity for which the variance is sought.
  (2) The Board is authorized to grant relief in the form of a variance to any person from the prohibitions established in Code §21-107 if the Board finds that such relief is in the public interest.
  (3) The Board shall consider the following factors in determining whether to grant a variance:
    (a) The balance of the hardship to the applicant, the community and other persons in not granting the requested relief against the adverse impact on the

health, safety, and welfare of the person adversely affected and any other adverse effects of the granting of the relief;

(b) The nearness of any dwelling unit(s) or noise-sensitive zone that would be adversely affected by the sound produced by the activity or event;

(c) The level of the sound to be generated by the activity or event;

(d) Whether the type of sound to be produced by the activity or event is usual or unusual for the location or area for which the relief is requested;

(e) The density of population of the area in which the activity or event is to take place;

(f) The time of day or night when the activity or event is to occur;

(g) The duration of the activity or event; and

(h) The nature of the sound to be produced, including but not limited to, whether the sound will be steady, intermittent, impulsive, or repetitive.

(4) Any variance granted by the Board must be issued in writing and must state all conditions upon which variance has been granted. The Board may prescribe any reasonable conditions or requirements it deems necessary to minimize any adverse effects of the activity's sound levels on the community and surrounding neighborhood.

(B) Application for Temporary Permit—Non-Commercial Speech.

(1) The Mayor and City Manager may issue relief in the form of a temporary permit to any person or group of persons from the maximum permissible sound levels established in Code §21-106, the strict application or threatened application of which may infringe on the person's or persons' right to freedom of speech, freedom of assembly, equal protection, or to the free exercise of religion as secured by the Tennessee Constitution or the United States Constitution.

(2) Application for such a waiver shall be made to the City Manager or Mayor on a form available from the City Manager's office.

(3) The City Manager or Mayor shall then consider the application and make a written determination within five (5) business days of receiving the application. The City Manager or Mayor shall grant a permit to the extent necessary to eliminate the violation if the City Manager or Mayor determines based on the evidence submitted that application of the ordinance in such case would violate the applicant's right to freedom of speech, freedom of assembly, equal protection, or to the free exercise of religion as secured by the Tennessee Constitution or the United States Constitution. If a temporary permit is issued, the permit shall specify the name of the person to whom the permit is granted, the location of the property for which the work is authorized, a description of the activity, the date(s) and time(s) during which the permit shall be effective, and, if applicable, the dBA level(s) authorized. The City Manager or Mayor may prescribe any reasonable conditions or requirements it deems necessary to minimize any adverse effects of the activity's sound levels on the community and surrounding neighborhood.

(4) A temporary permit may be granted only for the period of time that is reasonably necessary to conduct the activity, which in no case may extend past the next regularly scheduled meeting of the Board of Zoning Appeals.

(5) The applicant may appeal the City Manager's determination to the Board of Zoning Appeals within twenty (20) days of the date of such determination.

(C) *Application for Temporary Permit—Construction.*

(1) The Chief Building Official may issue a temporary permit grant relief in the form of a temporary permit to any person conducting construction work within the City from the maximum permissible sound levels established in Code §21-106 if the Chief Building Official finds that such relief if the strict application of such sound levels would create an undue hardship on the person seeking relief, there is no reasonable and prudent alternative method for engaging in the activity for which the temporary permit is sought, and granting the requested relief would not endanger public health or safety. The applicant shall bear the burden of proof with respect to each of these elements.

(2) Application for such a temporary permit issued pursuant to this section shall be made on a form available from the Building and Codes Department.

(3) The Chief Building Official shall consider the following factors in determining whether to grant a variance:

(a) The balance of the hardship to the applicant, the community and other persons in not granting the requested relief against the adverse impact on the health, safety, and welfare of the person adversely affected and any other adverse effects of the granting of the relief;
(b) The nearness of any dwelling unit(s) or noise-sensitive zone that would be adversely affected by the sound produced by the activity or event;
(c) The level of the sound to be generated by the work;
(d) Whether the type of sound to be produced by the work is usual or unusual for the location or area for which the relief is requested;
(e) The density of population of the area in which the work is to take place;
(f) The time of day or night when the work is to occur;
(g) The duration of the work; and
(h) The nature of the sound to be produced, including but not limited to, whether the sound will be steady, intermittent, impulsive, or repetitive.

(4) The Chief Building Official shall consider the application and make a written determination within 30 days of receiving the application. If a temporary permit is issued, the permit shall specify the name of the person to whom the permit is granted, the location of the property for which the work is authorized, a description of the work, the date(s) and time(s) during which the permit shall be effective, and, if applicable, the dBA level(s) authorized. The Chief Building Official may prescribe any reasonable conditions or requirements it deems necessary to minimize any adverse effects of the activity's sound levels on the community and surrounding neighborhood.

(5) A temporary permit may be granted only for the period of time that is reasonably necessary to conduct the activity, which in no case exceed fourteen (14) days or extend past the next regularly scheduled meeting of the Construction Board of Adjustments and Appeals, whichever is longer.

(6) The applicant may appeal the Chief Building Official's to the Construction Board of Adjustments and Appeals within twenty (20) days of the decision in accordance with Code §7-16.

(D) *Application Fee.* Any administrative fee associated with applying for a temporary permit or variance under this Section shall be set by resolution adopted by the City Council.

SECTION 21-111 INVESTIGATIONS; RIGHT OF ENTRY.

Any Murfreesboro Police Officer or Building Official or Inspector, in addition to any other authority vested in any such person, has the power, upon presentation of proper credentials, to enter and inspect any dwelling, multifamily dwelling, building, structure, or premises within the City as may be necessary to enforce the provisions of this Article. Permission to conduct any such inspection must be obtained in writing from the occupant or, in the case of unoccupied property, from the owner or the owner's agent. If such permission is refused or cannot otherwise be obtained before such entry or inspection is made, a search warrant must be obtained upon the showing of probable cause to believe that a violation of this Article may exist, unless the sound emanating from the location presents an immediate threat to health and safety.

SECTION 21-112 ENFORCEMENT PROCEDURES; PENALTIES AND OTHER REMEDIES.

(A) Citation. Violations of this article may be prosecuted by citation in the same manner as other violations of the City Code.

(B) Warning Prior to Citation. The City must issue a written warning for the first violation of this Article committed by any person engaged in non-commercial speech or permitting a violation of Section 21-108(D) (animal and birds) before the person is issued a citation. Issuing a warning prior to citation for any other violation of this Article is not required.

(C) *Continuing Violations.* Each violation of this Article shall be considered a separate offense, and any violation continuing one-half (1/2) hour or reoccurring within one-half (1/2) hour shall be considered a separate offense for each half hour of violation.

(D) *Prima Facie Evidence.* Any sound exceeding the applicable sound level limit specified in this Article shall be deemed to be prima facie evidence of a violation of this Article.

(E) *Affirmative Defenses.* It is a defense to an offense under this Article that:

(1) In circumstances in which this section requires a warning, no warning was given;

(2) An order, if given, was manifestly unreasonable in scope;

(3) An order, if given, was promptly obeyed;

(4) The device creating the noise was operated within an enclosed motor vehicle and was not audible outside the vehicle in which it was operated;

(5) The device creating the noise is one required by any law, ordinance or regulation of the federal, state, or municipal government and was being operated in accordance with applicable law; or

(6) The device is operated as part of a parade or other activity for which a special permit has been obtained from any governmental entity having jurisdiction within the City.

(F) *Penalty for Violation.* Any person violating any provision of this Article shall be punished as provided in Murfreesboro City Code Section 1-8. In addition to any penalty imposed pursuant to Section 1-8, the judge may require a guilty party to reimburse the City any and all reasonable costs incurred in connection with proving the violation, including, without limitation, costs associated with renting audio equipment and retaining the services of acoustical engineers and/or other professionals trained in sound measurement and/or acoustics.

(G) *Stop Work Order.*

(1) In lieu of or in addition to issuing a citation as provided for in subsection (C), the Chief Building Official may issue a stop work order requiring the immediate halt of any construction or repair or maintenance of real property and abatement of any source of sound alleged to violate this Article, where such violation threatens the health or safety of the public or materially impairs the City's ability to secure compliance with this Article.

(2) The stop work order must specify the violation and may prohibit all or any work or other activity at the site that is a cause of the violation of this Article or the violation of a temporary permit or variance granted pursuant to Code §21-110.

(3) The Chief Building Official may serve the stop work order by posting it in a conspicuous place at the site, if posting is physically possible. If posting is not physically possible, the stop work order shall be served on the owner(s) of the property and the person(s) performing the work on the property either by personal service or by first class mail to the person's last known address. Service is complete at the time of posting or of personal service, or if mailed, three (3) days after the date of mailing. When the last day of the period so computed is a Saturday, Sunday, or Legal holiday, the period runs until 5:00 p.m. on the next business day.

(4) A stop work order shall remain in effect until the violation ceases or until the Chief Building Official grants a temporary permit for the work or issues a written determination that the violation has been mitigated technically and economically feasible in accordance with subsection (E).

(5) Any person aggrieved by a stop work order may appeal its issuance to the Construction Board of Adjustments and Appeals within twenty (20) days of the decision in accordance with Code §7-16.

(H) *Injunctive Relief.* The City may institute a civil action seeking an injunction and order of abatement against any person creating or allowing the creation of any unlawful noise, including the owner or person otherwise having legal or actual control of the premises from which the unlawful noise emanates.

(I) *Identification of Violator.*

(1) *At private residences.* Any adult resident present at the time of the offense, and any adult guest or adult trespasser with the ability to control the level of noise at the time of the offense when no adult is present at the time of the offense.

(2) *At business locations.* Any business owner, operator, manager, employee-in-charge and all persons in control or in possession instrument generating the noise disturbance or property at the time of the offense. In addition, any officer, agent, or other person acting for or employed by any corporation, or unincorporated association or organization shall be subject and liable to punishment as well as such corporation, or unincorporated association or organization for the violation of any section of this Article, where such violation was the result of the act, omission, or order of any such person

(3) *At any location with an unattended noise disturbance producing machine, device, instrument, animal, or combination of the same.* Any person who leaves unattended any machine, instrument, device, animal, or any combination of the same, that thereafter continues or commences to produce a noise disturbance.
(4) If the person operating or controlling the source of a noise disturbance cannot be identified, any owner, tenant, resident, or manager physically present on or in the property where the violation is occurring is rebuttably presumed to be guilty of the violation.

SECTION 21-113 NO LIMITATION OF REMEDY.

(A) No provision of this Article shall be construed to impair any common law or statutory cause of action, or legal remedy there from, of any person for injury or damage arising from any violation of this ordinance or from other law.
(B) Nothing in this Article shall be construed to prevent or limit any person from seeking any remedy available in law or equity for activities that are or may be subject to regulation by this chapter, or from pursuing any such remedy simultaneously with proceedings under this chapter, nor shall any of the procedures specified herein be a condition precedent to the intuition of any legal action.

SECTION 3: The Murfreesboro City Code is hereby amended by deleting Section 7-16(F) pertaining to applications for appeal to the Construction Board of Adjustments and Appeals and in lieu thereof adopting the following:

(F) Any person directly affected by a decision of the a decision, notice, or order of the Chief Building Official, or the Chief Building Official's designee, enforcing any provision of Chapter 21, Article V of the Murfreesboro City Code or any provision of International Building Code, the International Residential Code, the International Property Maintenance Code, the International Mechanical Code, the International Plumbing Code, the International Fuel Gas Code, the International Fire Code, the International Energy Conservation Code, the Standard Excavation Code, or the 2010 ADA Standards for Accessible Design, as such codes and standards have been adopted and amended by ordinance, shall have the right to appeal to the Construction Board of Adjustments and Appeals, provided that a written application for appeal is filed within twenty (20) calendar days after the day the decision, notice, or order was served. If the decision, notice, or order is served by mail, three (3) days shall be added to the time within which the written application for appeal must be filed.

SECTION 4. Should any article, section, subsection, sentence, clause, provision, or word of this ordinance be declared to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of the ordinance as a whole, or any part thereof other than the part declared to be unconstitutional or invalid, as each such article, section, subsection, sentence, clause, provision, or word hereof is declared to be severable.

SECTION 5. The captions and headings of sections throughout this Ordinance are intended solely to facilitate reading and reference to the sections and provisions of this Ordinance. Such captions shall not affect the meaning or interpretation of this Ordinance.

SECTION 6. This Ordinance shall take effect fifteen (15) days after its passage upon third and final reading, the public welfare and the welfare of the City requiring it. All commercial and industrial activities subject to regulation by this Ordinance and operating within the City as of the Ordinance's effective date shall comply with all provisions applicable to the business within one hundred eighty (180) days of the Ordinance's effective date.

Passed:

1st reading October 16, 2014

2nd reading November 6, 2014

3rd reading November 13, 2014

Shane McFarland, Mayor

ATTEST:

Melissa B. Wright
City Recorder

SEAL

APPROVED AS TO FORM:

Susan Emery McGannon
City Attorney