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Farmer
Stinnett
Crosbie
McChord
Henson

A G E N D A

Public Safety Committee

November 15, 2011

1:00 P.M.

- 1. Noise Ordinance – Blues** (1-40)
- 2. Community Corrections CAP Program – Public Safety Link** (41-42)
- 3. Items Referred to Committee** (43-44)

“Public Safety Committee, to which shall be referred matters relating to the Department of Public Safety and its related divisions.” Council Rules & Procedures, Section 2.102 (1)

NOISE ORDINANCE TASK FORCE ORIGIN

A discussion of noise issues during the January 8, 2008 meeting of the Services Committee covered issues emerging from the close relationship between industrial areas and neighborhoods, enforcement problems, various noise complaints received by Council Members, and the possibility of creating one noise ordinance to cover all aspects of the issue. CM Myers' motion "to create a task force to look at all noise issues" passed unanimously.

In a January 10, 2008 memorandum, Committee Chair Chuck Ellinger asked Vice Mayor Jim Gray to create a task force including Councilmembers, Police, and citizens "to review the existing noise ordinance and make recommendations to improve the local government response to noise, including enforcement and compliance."

Lexington's existing Noise Ordinance (NO)—section 14-70 through 14-80, Lexington-Fayette Urban County Government Code of Ordinances: the "Noise Ordinance"—has not been revised since 2000, and has remained substantially the same since its adoption in 1982.

The task force was comprised of:

- Councilmember Linda Gorton, co-chair
- Councilmember Tom Blues, co-chair
- Rick Curtis, Department of Public Safety
- Lieutenant David Lyons, Division of Police
- David Barberie, Department of Law
- David Jarvis, Division of Code Enforcement
- Coleman Bush, citizen, Meadowthorpe Neighborhood
- Larry Hamilton, citizen, Meadows-Loudon Avenue Neighborhood
- David Magner, citizen, Trane Commercial Systems, Beaumont Neighborhood
- Anne Marie Stamatiadis, citizen, Seven Parks Neighborhood
- Linda Worley, citizen, Seven Parks Neighborhood

Coleman Bush and Linda Worley replaced originally-appointed members David Banks and Linda Levstik.

Lieutenant David Marcum, Division of Police substituted on several occasions for Lieutenant Lyons.

Task Force members also invited the representatives of the following government offices, organizations and/or interests to participate in discussions at various meetings:

- LFUCG Division of Risk Management
- Lexington Fayette County Department of Health
- Fayette County Attorney
- Lexington Area Music Alliance
- William T. Young and Darby Turner, representing industrial stakeholders

The task force held 33 meetings, from March 26, 2008 to May 18, 2011. Each meeting was scheduled for 90 minutes and open to the general public, with a 10-15 minute

period reserved for public comment. Business was conducted by parliamentary procedure and all substantive decisions were made by motion and majority vote.

All meetings, summaries, and packets were posted on the LFUCG website.

A public meeting was also held in Council Chambers April 30, 2009 to hear citizen comments, complaints, and suggestions regarding noise issues.

The task force's primary task was to review the Noise Ordinance and propose revisions. However, we also developed corollary recommendations regarding noise issues in Lexington. See Tab 6.

GENERAL BACKGROUND – NOISE REGULATION

Unlike many other states, the Commonwealth of Kentucky has little in the way of statutes and regulations pertaining to noise. Although the Commonwealth adopted a general statute on this subject—KRS 224.30-100, et seq., the “Kentucky State Noise Control Act” (Tab 7)—it has never adopted any corresponding regulations. As a result, the state has largely left the issue of noise control regulation to local governments.

There is also little Kentucky case law guidance in the area of noise regulation. In reviewing other Kentucky noise ordinances, we found Lexington’s to be somewhat in the middle in terms of its specificity and breadth. Although some other jurisdictions in Kentucky are currently considering adding decibel measurements into their existing noise ordinances, at the time this issue was being considered by the task force it was only aware of two jurisdictions in the Commonwealth that had actually incorporated decibels into their ordinances – the Cities of Maysville and Paducah.

Lexington has historically allowed some noise problems to proliferate through a lack of control and regulation in the planning/zoning process. By way of example, there are some locations in which property zoned and used for industrial purposes directly abuts single family residential properties.

I. General:

Prior to the creation of the task force, an issue was identified regarding the application of the Noise Ordinance to properties in which one parcel included a dwelling unit (as defined in the Noise Ordinance), but the adjacent parcel creating the noise did not (i.e. the property was being used for commercial or industrial use). It was not clear whether the Noise Ordinance applied in those instances because the language used in the definition of dwelling unit was open to interpretation.

In addition, there were numerous complaints pertaining to noise emissions from motor vehicles – especially those related to stereos, mufflers, and large truck braking.

After considering the above issues and comprehensively reviewing the Noise Ordinance, the task force narrowed its focus and review of the Noise Ordinance to the following:

1. Redefining what constitutes a noise violation in order to provide the community with a better understanding of what conduct is prohibited and what criteria will be considered as part of that determination;
2. Clarifying that the noise ordinance is intended to apply to all properties in Lexington-Fayette County, regardless of zoning;
3. Identifying and defining certain types of conduct or activities that automatically constitute a noise violation and other types of conduct that would be examples of conduct that might likely be deemed violations;
4. Identifying and defining the specific types of conduct or activities that would not be considered noise violations (i.e., exceptions); and
5. Creating a comprehensive variance process designed to balance the competing interests of businesses and/or institutions and private citizens.

The task force modeled most of the provisions in the proposed ordinance from ordinances in other jurisdictions, including Louisville, Kentucky; Covington, Kentucky; Knoxville, Tennessee; and Portland, Oregon. However, some of the provisions of the variance process are unique to the proposed ordinance.

The task force believes the proposed noise ordinance (hereinafter referred to as the "Proposed Ordinance" or "PO") is easier to understand and therefore will be easier to enforce than the current ordinance. In addition, the Proposed Ordinance applies to noise-creating activities that unreasonably impact its citizens, regardless of source. We also think the variance process and the establishment of a noise officer and noise board will assist in resolving many of the more problematic noise situations, which should free up the Division of Police to devote its resources to general enforcement.

II. Specific Issues of Note

There were several areas of the proposed ordinance that involved a great deal of discussion and deliberation. However, three items in particular warrant special mention—decibels, civil enforcement, and the failure to specifically list a standard in the noise violation analysis (Sec. 14-71(c), PNO) related to the zoning or use of the property from which the noise emanates.

A. Decibels: We seriously considered decibel readings as a minimum threshold for certain noise violations and believe that future reviews of the ordinance should include the possible application of decibel technology. However, because of certain current limitations, we determined that it is neither realistic nor feasible to pursue the adoption of decibel standards at this time.

This decision was based on the following assumptions: (1) that the Division of Police would continue to be the sole or primary enforcement division for noise violations; (2) that pursuant to state law the officer would continue to be required to eyewitness the violation in order to issue a citation; (3) that equipment would need to be procured (a quality unit can cost in excess of \$2,000), and (4) that significant and regular training

would need to be provided. In addition, it was reported that the jurisdictions in Kentucky that used decibel readings in enforcing noise violations did not report any more satisfaction or success in enforcing their ordinances than those jurisdictions that do not utilize decibel standards.

B. Civil Enforcement: The task force also considered decriminalizing violations and instead using civil fines for enforcement through an administrative hearing process pursuant to KRS 65.8801, et seq. However, this requires creation of a hearing board, with corresponding staff support, and may require another division of the government other than police to enforce the violations. Finally, it was noted that the noise violator may not own real property to which a civil fine could readily attach, thereby creating a potential enforcement loophole in some instances. For the above reasons, we decided to maintain the existing enforcement process, which criminalizes violations, and to recommend raising the existing level of fines. (Sec. 14-80, PNO)

C. Zoning or Use of the Property from which the Noise Emanates: One of the issues generating the most discussion related to whether the zoning or use of the property from which the noise emanates should have to be considered as part of the normal analysis undertaken prior to issuance of a citation. The task force deadlocked on this issue; as a result, the standards to be considered in making a noise violation determination (Sec. 14-71(c), PNO) do not include an express requirement that this land use be considered.

COMPARING THE ORDINANCES

The following is a section-by-section summary comparison of the proposed changes to the Noise Ordinance (NO) presented in the order that each concept is found in the proposed ordinance (PNO).

General Definitions (modifies current section)

NO: includes list of general definitions (Sec. 14-70).

PNO: Most meaningful change, elimination of the definitions of "dwelling unit" and "dwelling unit boundary" because no longer used in PNO.

General Noise Prohibition (modifies current section)

NO: single sentence prohibiting noise disturbances on or across public rights of way or places, with an exception listed for public speaking. (Sec. 14-71).

PNO: Describes what constitutes violation in greater detail; lists 8 specific standards that must be considered in determining whether a violation exists in most instances. (Sec. 14-71(a) and (c)). Other legitimate criteria can be considered if necessary.

Specific Noises Prohibited (modifies current section)

NO: lists 10 separate activities (with limited sub-categories) as express violations, including types of noises associated with construction, domestic machinery, pets, music. (Sec. 14-72). Creates potential exceptions through language used to describe certain of the prohibited activities, particularly those with hourly standards.

PNO: lists 6 specifically prohibited activities. (Sec. 14-71(b)) Any person engaging in these activities violates ordinance.

PNO: lists 4 specific activities deemed likely violations, but requires further review and consideration of 8 standards previously mentioned. (Sec. 14-71 (c) (d)).

NOTE: The P.O. also further limits some activities that have existing hourly restrictions by imposing the restriction at 9 p.m. instead of 11 p.m.

Vehicle Stereo Noise (new stand-alone section)

NO: Prohibits vehicle stereo noise emanating 50 or more feet from vehicle (Sec. 14-72(8)(b)).

PNO: Addresses car stereo noise separately (Sec. 14-71.1); much more detailed than existing provision. Most substantive change: prohibits such noise audible ten (10) feet or more from the vehicle, considerably more restrictive than the current fifty (50) foot threshold

Exceptions

NO: Lists 4 exceptions (14-78); also many activities listed in 14-72 historically enforced as exceptions.

PNO: Lists all 18 exceptions (Sec. 14-72) in one section. Aims for consistency in those instances in which hours of operation were included (7 a.m. to 9 p.m. weekdays, 9:00 a.m. to 9:00 p.m. weekends), with some limited variations (e.g., refuse collection, special events, fireworks).

Rules and Regulations (new section)

NO: Not Applicable

PNO: Allows public safety commissioner or designee to adopt rules and regulations for administering and enforcing ordinance (Sec. 14-73 PNO).

Noise Officer (new section)

NO: Not Applicable

PNO: establishes a designated noise officer (Commissioner of Public Safety or designee), tasked with reviewing variance applications, performing investigations, and other related functions (Sec. 14-74).

Noise Board (new sections)

NO: Not Applicable

PNO: establishes and creates 8 member noise board (Sec. 14-75); 5 voting members, one a professional from noise-related field; three non-voting members—noise officer, construction or manufacturing industry representative, music industry representative. Board's primary roles: decide on noise variance applications, perform noise-related investigations.

Variances (modified section)

NO: Provides for limited special variance application procedure, based on limited hardship circumstances (Section 14-74 NO).

PNO: Establishes much more detailed variance process (Sec. 14-76 PNO); applicant submits detailed application for variance, with \$100 fee. Noise officer determines whether he/she alone or noise board needs to review application, based on anticipated

significance of noise impact; if significant, public hearing before noise board.

Granting variance based upon balancing various interests involved, considering at least the following in every case:

1. The physical characteristics, times and durations of the emitted sound;
2. The geography, zoning, and population density of the affected area;
3. Whether the public health, safety or welfare is impacted;
4. Whether the sound source predates the receiver(s);
5. Whether compliance with the standard(s) or provision(s) from which the variance is sought would produce hardship without equal or greater benefit to the public; and
6. Reasonable and feasible measures taken to reduce or eliminate the noise.

Final decision on variance could include modification to application and/or required conditions. Decibel limits possible.

Extension for Compliance (new section)

NO: Not Applicable

PNO: Allows pre-existing industrial and commercial facilities 6 month period to comply with ordinance (Sec. 14-76.1), with provision to seek additional 6 month extension upon showing good faith effort

Penalties

NO: Minimum \$50, maximum \$500, first offense (Sec 14-80)

PNO: Minimum \$100, maximum \$1,000, first offense (Sec. 14-80).

Sec. 14-70. Definitions.

As used in the Noise Ordinance, as defined below:

- (1) Construction means any site preparation, assembly, erection, substantial repair, alteration or similar action.
- (2) Demolition means any dismantling or intentional destruction or removal of structures, utilities, public or private right-of-way, surfaces, or similar property.
- (3) Noise means the intensity, frequency, duration and character of sound or sounds from a source or sources.
- (4) Noise Ordinance means sections 14-70 through 14-80 of the code of ordinances.
- (5) Person means any individual, association, partnership or corporation, and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state.
- (6) Powered model vehicle means any self-propelled airborne, waterborne or landborne plane, vessel or vehicle, which is not designated to carry persons, including, but not limited to, any model airplane, boat, car or rocket.
- (7) Public right-of-way means any street, avenue, boulevard, highway, sidewalk, alley or similar place which is owned or controlled by a governmental entity.
- (8) Vehicle means every device or vehicle defined as a vehicle, motor vehicle, and/or motorcycle in section 18-1 of this code.

Sec. 14-71. Conduct constituting violation.

- (a) It shall be unlawful for any person within Fayette County to make, produce, cause, suffer, continue or allow to be produced or continued by human voice, machine, animal, or device, or any combination of the same, any unreasonably loud, excessive, harsh, unusual or unnecessary noise which either disturbs the peace and quiet of any neighborhood, or which endangers or injures personal or real property, or which causes discomfort or annoyance to any reasonable person of normal sensitivities residing in the area, or which otherwise injures or endangers the comfort, repose, health, peace, safety or welfare of others.
- (b) The following acts, and the causing or permitting thereof (subject to specific exemptions or exceptions), are declared to be unreasonably loud, harsh, unusual or unnecessary noises in violation of the Noise Ordinance:
 - (1) The sounding of any horn or other such audible signaling device on any vehicle for an unnecessary and unreasonable period of time.

- (2) The use or operation, or permitting the use or operation, of any radio, receiver, stereo, speaker, amplifier, television, musical instrument, phonograph, computer, or other machine or device for the producing or reproducing of sound which is cast upon the public streets or rights-of-way, whether in or on a sound truck or otherwise, for the purpose of commercial advertising or attracting the attention of the public to any building or structure.
- (3) The use or operation of a vehicle in such a manner as to produce any loud, harsh, or excessive noise, or to discharge into the open air the exhaust of any steam engine, stationary internal combustion engine, motor boat or vehicle, except through a muffler or other device that will effectively prevent loud or explosive noises therefrom.
- (4) The use of any vehicle so out of repair or loaded in such manner as to create loud or unnecessary grating, grinding, rattling, or other noise.
- (5) The use or operation, or permitting the use or operation, of powered model vehicles, so as to annoy or disturb a reasonable person of normal sensitivities residing in the area, particularly between the hours of 9:00 p.m. and 7:00 a.m., prevailing local time, or on Saturday or Sunday before 9:00 a.m., prevailing local time.
- (6) Repairing, rebuilding, modifying, or testing any vehicle or motorboat so as to annoy or disturb a reasonable person of normal sensitivities residing in the area, particularly between the hours of 9:00 p.m. and 7:00 a.m., prevailing local time, or on Saturday or Sunday before 9:00 a.m.

(c) With the exception of those noise activities specifically prohibited in subsection (b) above, the standards which shall be considered in determining whether a violation of this section exists shall include, but shall not be limited to the following:

- (1) The volume of the noise;
- (2) The frequency of the noise;
- (3) The intensity of the noise;
- (4) The volume, frequency, and intensity of any background noise;
- (5) The proximity of the noise to a residential area, place of public accommodation such as a hotel, motel, and the like, health care facilities, churches, or schools;
- (6) The time of day the noise occurs;
- (7) The duration of the noise; and
- (8) Whether the noise is recurrent, intermittent, or constant.

(d) The following acts, among others, and the causing or permitting thereof (subject to specific exemptions), are specific, non-exclusive examples of noise activities which may be deemed violations of the Noise Ordinance:

- (1) The use or operation, or permitting the use or operation, of any radio, receiver, stereo, speaker, amplifier, television, musical instrument, phonograph, computer, or other machine or device for the producing or reproducing of sound in such a manner as to create a loud, harsh or excessive noise which annoys or disturbs a reasonable person of normal sensitivities residing in the area. Words and phrases need not be discernible for said sound to be "audible", and said sound shall include bass reverberation. This section shall not apply to a vehicle located in the areas specified in section 14-71.1.
- (2) The loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans or similar objects between the hours of 9:00 p.m. and 7:00 a.m., prevailing local time, or on Saturday or Sunday before 9:00 a.m. prevailing local time, or at any time or place so as to annoy or disturb a reasonable person of normal sensitivities residing in the area. These prohibitions do not apply where such activity occurs within loading facilities where the activity is inside an enclosed building or inside a truck box or trailer that is essentially included within the building by virtue of a weather seal.
- (3) The keeping or harboring of any animal, including, but not limited to, domestic pets, that continuously, repeatedly or frequently emits any sound, including but not limited to barking, yelping, howling, meowing, or squawking, or that otherwise creates noise in such a manner so as to annoy or disturb a reasonable person of normal sensitivities.
- (4) The use of any mechanical device(s) operated by compressed air, unless the noise created thereby is effectively muffled and reduced.

Sec. 14-71.1. Vehicle stereo noise.

Consistent with the other provisions of the Noise Ordinance, and in addition thereto, no person shall use or operate any radio, stereo, tape player, record player, compact disc player or any similar device for the producing, reproducing or amplification of sound in or on any vehicle which when located on the public streets or rights-of-way or within or on any other public property, including, but not limited to parks, or public parking lots operated by the urban county government or the Lexington and Fayette County Parking Authority/LexPark, in such a manner as to create a loud, harsh or excessive noise which annoys or disturbs a reasonable person of normal sensitivities by creating or allowing a

louder volume than is necessary for the convenient hearing of person(s) who are in the vehicle and which is audible to a person of normal hearing sensitivity more than ten feet (10') from such vehicle. Words and phrases need not be discernible for said sound to be "audible," and said sound shall include bass reverberation.

Sec. 14-72. Exceptions.

None of the terms or prohibitions contained in the Noise Ordinance shall apply to or be enforced against:

- (1) Noise related to alerting persons to the existence of an emergency.
- (2) Noise related to the performance of an emergency response or emergency work, including activities of the urban county government, the state, or any public utility.
- (3) Noise related to necessary law enforcement, or those otherwise necessary for the health, welfare and safety of the community.
- (4) Noise caused by sources regulated as to sound production by federal law.
- (5) Noise related to the operation of any aircraft in conformity with, or pursuant to federal law or federal air regulations and/or air traffic control instructions.
- (6) Noise related to the use of properly muffled domestic power tools or equipment (including but not limited to power lawn mowers, trimmers, blowers, tillers, saws, sanders, drills or similar devices) between the hours of 7:00 a.m. and 9:00 p.m., prevailing local time, except on Saturdays or Sundays, when such use shall be exempted beginning at 9:00 a.m.
- (7) Noise resulting from the excavation, construction, demolition, repair, paving, or alteration of buildings or structures, or streets or rights-of-way between the hours of 7:00 a.m. and 9:00 p.m., prevailing local time, except on Saturdays or Sundays, when such use shall be exempted beginning at 9:00 a.m.
- (8) Noise related to agricultural and forestry operations within properly zoned areas.
- (9) Noise related to the collection and/or compaction of refuse or recyclable material, between the hours of 5:30 a.m. and 9:00 p.m., prevailing local time.
- (10) Noise created by bells, chimes and/or carillons on schools, public buildings, and other places of assembly not operating continuously for more than five minutes in any one hour.

- (11) Noise related to public affairs conducted, permitted, or authorized by the urban county government.
- (12) Noise related to parades and/or public assemblies provided all necessary permits have been obtained.
- (13) Noise related to lawful picketing or other public demonstrations protected by the Constitution or other laws.
- (14) Noise related to activities, events, or programs taking place on public property that are expressly authorized or permitted by the urban county government, including but not limited to festivals and entertainment events. The urban county government reserves the right, as a condition of this exemption, to impose upon the host or sponsor of such an event requirements consistent with the public notice requirements and other related requirements of the variance process in section 14-76.
- (15) (a) Noise related to special event activities (i.e., noise that is not related to the normal operations of the entities listed below), including, but not limited to, neighborhood or church festivals and entertainment events if the special event is: (a) conducted on property owned or operated by a school, civic, charitable, or religious organization, or neighborhood association, and (b) is being held for the benefit of such an entity, between 7:00 a.m. and 9 p.m., prevailing local time, except on Fridays, Saturdays, federal holidays or holiday eves, when such activities shall be exempt up until 11:00 p.m. Notwithstanding the above, this exemption is not intended to allow such property to be used in such a manner on a frequent basis without regard to the level of noise. The urban county government reserves the right, as a condition of this exemption, to impose upon the host or sponsor of such an event requirements consistent with the public notice requirements and other related requirements of the variance process in section 14-76.
 (b) Any person intending to rely upon subparagraph (a) above, as an exemption must provide the urban county government's noise officer with at least fourteen (14) days advanced written notice of the event.
- (16) Noise related to the actual performance of organized sporting events, or school or organized recreational activities, including but not limited to band practices, club use, and athletic practices taking place on school campuses or in publicly owned or operated parks, playgrounds, facilities, or recreation areas, during the hours that they are normally open for such use.
- (17) Noise related to fireworks displays, provided all necessary permits have been obtained, and said display concludes by no later than

the hour of 10:30 p.m., prevailing local time Sunday through Thursday, or 11:30 p.m., prevailing local time Friday or Saturday or on a federal holiday or holiday eve. **(Note: Subject to revision to make consistent with terms of proposed fireworks ordinance.)**

- (18) Noise for which a variance has been granted pursuant to section 14- 14-76.

Sec. 14-73. Rules and regulations.

The commissioner of public safety or his designee is hereby empowered to prescribe, adopt, promulgate, and enforce rules and regulations relating to any matter or thing pertaining to the administration or enforcement of the Noise Ordinance, which are not otherwise inconsistent with the Noise Ordinance.

Sec. 14-74. Noise officer.

The commissioner of public safety or his designee shall serve as the urban county government's noise officer (the "Noise Officer"), who shall have the powers, duties, and responsibilities specified herein. The noise officer shall review all applications for variances and may render decisions granting, denying, renewing, reinstating, suspending or revoking variances in accordance with the requirements and procedures specified in the noise ordinance; assist the Noise Board; advise, consult, and cooperate with any public or private agency, including departments or divisions of the urban county government in matters related to the noise ordinance; and investigate or assist in investigating any noise complaint that has been made to or referred to the government.

Sec. 14-75. Noise board.

(a) The Noise Board, which shall also be referred to as the board, is hereby created and established. The board shall consist of eight (8) members. The Noise Officer shall automatically serve as a nonvoting member of the board. The remaining members must be residents of Fayette County and are to be appointed by the mayor and approved by the council. The appointed board members shall consist of one (1) professional in a field related to noise issues, who is a voting member of the board; four (4) citizens at large, all of whom are voting members of the board; one (1) representative of the construction or manufacturing industry, who is an ex-officio, nonvoting member of the board; and one (1) representative of the music industry, who is an ex-officio, nonvoting member of the board.

(b) The presence of three (3) or more voting members of the board shall constitute a quorum, and the affirmative vote of three (3) or more voting members shall be necessary for any official action to be taken.

(c) The terms of the appointed members shall be four (4) years from the date of appointment, provided the terms are staggered in the manner required by section 7.02 of the Urban County Charter. No appointed member shall serve more than two (2) consecutive terms. Vacancies shall be filled in the same manner as the original appointment, and the successor shall be appointed for the unexpired term. Members shall serve without remuneration.

(d) An appointed member of the Noise Board shall be removed only by a majority vote of the council, and only for cause, except that an appointed member of the noise board shall automatically be removed by operation of law in the event of three (3) unexcused absences, whether consecutive or non-consecutive, in a two (2) year period or in the event of absence from at least twenty-five (25) percent of the meetings in a two (2) year period. An unexcused absence is any absence in which the chair of the noise board or the clerk of the urban county council is not notified of the intended absence at least twenty-four (24) hours in advance of a regularly scheduled meeting. In the event of three (3) unexcused absences or the absence from at least twenty-five (25) percent of the meetings over a two (2) year period, within the meaning of this section, the clerk of the urban county council shall notify the mayor and council administrator that a vacancy exists on the Noise Board.

(e) The board shall elect its own chairperson and vice chairperson at its first meeting of each year from among the voting members of the board, and shall determine its own schedule of meetings. The noise board may appoint a secretary and other officers it deems necessary, adopt its own bylaws and rules of procedure, and shall keep a record of its proceedings and transactions.

Sec. 14-75.1. Powers of board.

The Noise Board is empowered to:

- (1) Review applications for variances and render decisions within the time specified;
- (2) Issue decisions granting, denying, renewing, reinstating, suspending, or revoking variances;
- (3) Hold hearings consistent with its powers, duties and responsibilities;
- (4) Review noise complaints that are referred to it or that are directly requested by a complainant pursuant to the noise ordinance;
- (5) Develop procedures, guidelines and rules relative to the conduct of its meetings and to other matters it considers appropriate to noise control;
- (6) Evaluate the effectiveness of the Noise Ordinance and recommend amendments, additions, or deletions; and
- (7) Recommend the institution of public education program(s) regarding sound and noise, including the collection, publication and dissemination of appropriate literature and information, and the enlisting of cooperation by public,

civic, scientific, and educational groups; assist in developing long-term objectives for achieving reduction of sound levels in the community, and developing means for implementing these objectives into the long-range planning process.

(a) The Noise Officer and the Noise Board are also authorized to review and investigate noise complaints, including those related to compliance with a variance.

(b) Any person detrimentally impacted by noise may file a written request with the Noise Officer to have the noise investigated.

(1) Upon receiving a complaint, the noise officer and/or the chair of the Noise board will review the complaint in a manner consistent with section 14-71. The chair of the Noise Board may determine that a preliminary hearing or mediation involving the appropriate parties should take place regarding the complaint, and upon doing so shall notify the appropriate parties in writing of this recommendation.

(2) The Noise Officer or Noise Board may issue a non-binding written assessment as to whether the noise is likely a violation of the Noise Ordinance, which may also include recommended actions.

(3) The complainant(s) and source of the noise may agree at any time to take appropriate action to reduce or eliminate the noise.

(4) The above process is not intended to limit in any way a person's rights under the Noise Ordinance or any other law.

(c) In the event that there is a pending criminal case related to the noise (i.e., a criminal citation or complaint has been issued or brought against the alleged noise source for that same type of noise which has not been resolved) the complainant and the alleged violator may agree, with any appropriate and necessary approval from the Fayette County Attorney's Office and the Fayette District Court, to participate in mediation with the Noise Officer or Noise Board as provided in subsection (b), above.

Sec. 14-75.2. Board hearings.

(a) Prior to conducting a public hearing pursuant to the Noise Ordinance, the Noise Board shall provide the applicant and any person filing a statement with advance written notice of the date and time of the hearing.

(b) The chair of the Noise Board shall preside over the hearing and shall regulate the course of the proceedings in a manner which will promote the orderly and prompt conduct of the hearing.

(c) The Board shall recognize any person or entity claiming to be injuriously affected or aggrieved by the issuance of a variance as a party to the hearing.

(d) To the extent necessary for the full disclosure of all relevant facts and issues, the chair shall afford all parties the opportunity to respond, present documentary or tangible evidence, conduct cross-examination, and submit rebuttal evidence. However, the chair may limit repetitive testimony and evidence.

(e) Any party to a hearing may participate in person or may be represented by an attorney.

(f) If an applicant fails to attend or participate in a hearing, the Noise Board may adjourn the proceedings and issue a denial of the application for variance.

(g) All testimony shall be made under oath or affirmation. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings. All testimony shall be accurately and completely recorded; however, the urban county government is under no obligation to provide a transcript.

(h) Any part of the evidence may be received in written form, if doing so will expedite the hearing without substantial prejudice to the interests of any party, or if such practice is authorized by statute. Any party shall have the right, upon reasonable request, to inspect the documentary or tangible evidence relating to the hearing, either in person or through counsel.

(i) Objections to evidentiary offers may be made by any party and shall be noted in the record.

(j) The Noise Board may take official notice of any matter for which a court of the Commonwealth of Kentucky could take notice.

Sec. 14-76. Variance.

(a) Any person who owns, controls, or operates any sound source which does not comply with provisions or standards of the Noise Ordinance may apply for a variance from such standard(s) or provision(s) based upon an inability to come into full compliance without creating an unreasonable hardship to the applicant and/or the community.

(b) Application. The application shall be submitted for review on a form provided by the urban county government, which shall include the following:

- (1) The date, time, and location of the event or activity (including the nature and intensity of the noise, estimates of the range and impact according to times of day and location(s) and the number of person(s) affected);
- (2) The section(s) of the noise ordinance from which a variance is sought;

- (3) The reasons for which the variance is being sought (including any hardship to applicant or public if not granted);
- (4) All actions taken to comply with the Noise Ordinance (modifications to operations, construction measures, noise monitoring, etc.);
- (5) A proposed method for achieving compliance; and
- (6) A proposed time schedule for its accomplishment.

If the applicant believes that full compliance with the provisions of the Noise Ordinance cannot be feasibly achieved, the application shall also set forth: (1) the reasons for such belief; (2) the actions which have been taken to comply with the Noise Ordinance; (3) a proposed method of fully complying with the Noise Ordinance as nearly as is feasible; and (4) a proposed time schedule for its accomplishment. A separate application shall be filed for each noise source, provided, however, that several mobile sources under common ownership or several fixed sources on a single property may be combined into one application. The applicant may be required to supply additional information. The application shall not be considered submitted until all information has been supplied along with a non-refundable application fee in the amount of one hundred dollars (\$100.00). It is the responsibility of the applicant to submit the application in proper form, and to allow sufficient time for review, as specified in subsection (g), below.

(c) The Noise Officer shall initially review each application to determine whether review by the Noise Board is required, and if necessary, shall consult with the chair of the Noise Board. The criteria for this determination shall be whether the noise impact is deemed significant in duration, level, or in numbers of persons or property affected. If the potential noise impact is deemed not to be significant, the application will be reviewed by the Noise Officer, and a variance shall be granted, although it may include conditions as provided for in subsection (h), below. If the potential noise impact is deemed to be significant, the review will be made by the Noise Board.

(1) The application for a variance for activities related to construction (subsection 14-72(7)) will normally be reviewed and determined by only the Noise Officer, absent unusual circumstances.

(2) The application for a variance for activities of a permanent or semi-permanent duration will normally be reviewed and determined by the noise board unless the chair of the Noise Board and the Noise Officer agree that the noise impact is not significant.

(d) Review of the application on its merit shall be based upon a balancing of the hardship to the applicant, the community, and other persons of not granting the variance against the adverse impact on the health, safety, and welfare of persons affected, the adverse impact on property affected, and any other adverse impacts of granting the variance, and shall include consideration of at least the following:

- (1) The physical characteristics, times and durations of the emitted sound;
- (2) The geography, zoning, and population density of the affected area;
- (3) Whether the public health, safety or welfare is impacted;
- (4) Whether the sound source predates the receiver(s);
- (5) Whether compliance with the standard(s) or provision(s) from which the variance is sought would produce hardship without equal or greater benefit to the public; and
- (6) Reasonable and feasible measures taken to reduce or eliminate the noise.

(e) Applicants for variances and persons contesting variances may be required to submit any information the Noise Officer or the Noise Board may reasonably require.

(f) Public notification.

- (1) The Noise Officer may require that the applicant give notice of the application for variance to persons who frequent the area of the sound or activity and may be adversely affected by the granting of the variance, including but not limited to those property owners located within four hundred (400) feet of the property from which the noise emanates. Any individual who claims to be adversely affected by allowance of the variance may file a statement with the Noise Officer containing any information to support his or her claim.
- (2) Notice of receipt of all applications to be reviewed by the noise board shall promptly be published on the urban county government's website. Additional notice shall also be given by the applicant to affected neighborhood association(s), or owners and residents of property likely to be affected by the application, including, but not limited to those property owners located within four hundred (400) feet of the property from which the noise emanates, and to any person who has in writing requested notice of such application. Any individual who claims to be adversely affected by allowance of the variance may file a statement with the Noise Officer containing any information to support his or her claim. If the chair of the Noise Board finds that a sufficient controversy exists regarding an application, a public hearing may be held.

(g) Time for review and decision. Applications to be reviewed by the noise officer shall normally be decided within ten (10) business days of receipt of the completed application. Applications to be reviewed by the noise board shall normally be decided within forty-five (45) business days of receipt of the completed application. Should the applicant require more accelerated review than that provided above, the process may be shortened to no more than three

(3) business days for review by the noise officer, or seven (7) business days for review by the Noise Board, upon payment of an additional surcharge in the amount of the original application fee, and provided the chair of the Noise Board and the Noise Officer conclude that such accelerated review is sufficient for evaluation, and in the urban county government's interest. The above review deadlines may be extended for good cause by the Noise Officer or the chair of the Noise Board; however, in granting any such extension, due consideration must be given the prejudicial impact that such an extension may have on the applicant or any affected party.

(h) Variances may be granted, denied, granted or denied in part, or granted with conditions. All decisions shall be in writing and contain all terms, conditions, and requirements that the noise officer or the noise board deems reasonably necessary, including any time limit on the permitted activity, the maximum allowable noise level, which may be in the form of decibels, and the operating hours, and shall be made available to the applicant and any other person who has requested such decisions, and a copy shall be placed on public file. Those decisions made by the Noise Board shall state the facts and reasons leading to the decision. The variance shall not become effective until all conditions are agreed to by the applicant.

(i) Noncompliance with any condition of the variance shall terminate it and subject the person holding it to those provisions of the Noise Ordinance regulating the source of sound or activity for which the special variance was granted, including enforcement actions.

(j) Variances may be subject to review by the urban county government.

(k) Any substantial modification to an existing variance shall require that an application be filed, which shall be treated like an initial application for a variance.

(l) Any final written determination of the Noise Officer or the Noise Board may be appealed to Fayette Circuit Court as otherwise provided by law.

Sec. 14-76.1. Existing industrial or commercial properties.

(a) Any industrial or commercial facility already in existence prior to the effective date of the Noise Ordinance, as revised, or for which the improvement work had already begun, shall be allowed a six (6) month period commencing on the effective date within which to comply with the provisions of the Noise Ordinance if immediate compliance would create a hardship as to the operations of that facility. Such a facility may apply to the Noise Officer for an extension of time not to exceed a total of six (6) additional months, which shall be granted upon a showing of reasonable efforts made by the facility to come into compliance and the need for such additional time to fully comply.

(b) During the transition period provided in section (a), above, each facility shall make reasonable efforts to comply with, and to reduce noise which exceeds the standards in the Noise Ordinance. At the end of the transition period, the facility shall be subject to all of the applicable requirements of the Noise Ordinance.

(c) This section does not preclude the owner, operator, or person controlling a facility from applying for a variance pursuant to section 14-76. The Noise Officer or Noise Board shall consider the extent to which the applicant has attempted to reduce noise and comply with the Noise Ordinance during any transition period as an additional factor in the variance process.

(d) As used in this section "industrial facility" or "facility" means any building, structure, factory, plant, premises or portion thereof used for manufacturing or industrial purposes and "commercial facility" or "facility" means any building, structure, premise or portion thereof used for wholesale or retail commercial purposes.

Sec. 14-77. Citation for violation.

Except where a person is acting in good faith to comply with an abatement order issued pursuant to section 14-77.1, violation of any provision of the Noise Ordinance shall be cause for a citation to be issued by an urban county government law enforcement officer.

Sec. 14-77.1. Order of abatement of noise disturbance.

In lieu of issuing a citation as provided for in section 14-77, any urban county government law enforcement officer may issue an order requiring the immediate abatement of any source of sound alleged to be in violation of the Noise Ordinance.

Sec. 14-78. Effect on existing law.

No provision of the Noise Ordinance shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of these sections or from other law.

Sec. 14-79. Enforcement of other laws.

Nothing in the Noise Ordinance shall be construed to permit conduct prohibited by any other statute, ordinance or regulation, or to prohibit the enforcement thereof.

Sec. 14-80. Penalty for violation.

Any person who violates any provision of the Noise Ordinance shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00). Any person found guilty of a second offense of any of these sections within any twelve-month period shall be subject to a fine of not less than two hundred dollars (\$200.00), and any person found guilty of a third or greater offense of any of these sections within any twelve-month period shall be subject to a fine of not less than five hundred dollars (\$500.00).

00301203

DRAFT

ORDINANCE NO. _____

AN ORDINANCE CREATING SECTION 18-40 OF THE CODE OF ORDINANCES OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT PROHIBITING THE USE OF OR OPERATION OF ANY ENGINE BRAKE, COMPRESSION BRAKE OR MECHANICAL EXHAUST DEVICE DESIGNED TO AID IN THE BRAKING OR DECELERATION OF ANY VEHICLE WHICH RESULTS IN A NOISE DISTURBANCE, EXCEPT ON LIMITED-ACCESS HIGHWAYS, AND ESTABLISHING A FINE FOR AN OFFENSE OF NOT LESS THAN FIFTY DOLLARS (\$50.00) NOR MORE THAN FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; ALL EFFECTIVE ON JANUARY 1, 2012.

BE IT ORDAINED BY THE COUNCIL OF
COUNTY GOVERNMENT:

Section 1 - That Section 18-40 of the C
created to read as follows:

(A) It shall be unlawful for the d
operate or cause to be used or
compression brake or mechanical ex
in the braking or deceleration of ar
noise disturbance, except on limited-

(B) A *noise disturbance* means an

1. Endangers or injures the safety or health of humans or animals;
2. Annoys or disturbs a reasonable person of normal sensitivities; or
3. Endangers or injures personal or real property.

(C) Any person who violates any provision of this section shall be subject to a fine of not less than fifty dollars (\$50.00), nor more than five hundred dollars (\$500.00) for each offense.

Section 2 - If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unlawful by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Proposed
Jake Brake
Ordinance

Section 3 – That this Ordinance shall become effective on January 1, 2012.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL

PUBLISHED:

00317216

Sec. 14-70. Definitions ~~[applicable to sections 14-70 through 14-80].~~

As used in the Noise Ordinance, as defined below ~~[in sections 14-70 through 14-80]:~~

(1) Construction means any site preparation, assembly, erection, substantial repair, alteration or similar action~~[, but excluding demolition for or on public or private rights-of-way, structures, utilities or similar property].~~

(2) Demolition means any dismantling or intentional destruction or removal of structures, utilities, public or private right-of-way, surfaces, or similar property.

(3) Noise means the intensity, frequency, duration and character of sound or sounds from a source or sources. ~~[Dwelling unit means one (1) room or rooms connected together, constituting a separate, independent housekeeping establishment for occupancy by a family as owner, by rental or lease on a weekly, monthly or longer basis and physically separated from any other rooms or dwelling units which may be in the same building, and containing independent cooking and sleeping facilities.]~~

(4) Noise Ordinance means sections 14-70 through 14-80 of the code of ordinances. ~~[Dwelling unit boundary means a real or imaginary boundary which separates one (1) dwelling unit from another dwelling unit, including, but not limited to, walls, ceilings and floors in a building containing more than one (1) dwelling unit or in situations involving detached single dwelling unit[s], the real property boundary line of the unit.]~~

(5) ~~[(8)]~~ Person means any individual, association, partnership or corporation, and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state. ~~[Motor vehicle means every vehicle defined as a motor vehicle in section 18-1(15) of this Code.]~~

(6) ~~[(9)]~~ Powered model vehicle means any self-propelled airborne, waterborne or landborne plane, vessel or vehicle, which is not designated to carry persons, including, but not limited to, any model airplane, boat, car or rocket. ~~[Motorcycle means every vehicle defined as a motorcycle in section 18-1(14) of this Code.]~~

(7) ~~[(10)]~~ Public right-of-way means any street, avenue, boulevard, highway, sidewalk, alley or similar place which is owned or controlled by a governmental entity. ~~[Noise disturbance means any sound which:~~
a. ~~Endangers or injures the safety or health of humans or animals;~~
b. ~~Annoys or disturbs a reasonable person of normal sensitivities; or~~
c. ~~Endangers or injures personal or real property.]~~

(8) Vehicle means every device or vehicle defined as a vehicle, motor vehicle, and/or motorcycle in section 18-1 of this code.

Sec. 14-71. Conduct constituting violation ~~[Noise disturbances—Generally].~~

(a) It shall be unlawful for any person within Fayette County to make, produce, cause, suffer, continue or allow to be produced or continued by human voice, machine, animal, or device, or any combination of the same, any unreasonably loud, excessive, harsh, unusual or unnecessary noise which either disturbs the peace and quiet of any neighborhood, or which endangers or injures personal or real property, or which causes discomfort or annoyance to any reasonable person of normal sensitivities residing in the area, or which otherwise injures or endangers the comfort, repose, health, peace, safety or welfare of others. [In addition to the specific prohibitions outlined in section 14-72, no person shall make, continue, or cause to be made, continued or permitted any noise disturbance on or across a public right-of-way or a public place. This section shall not apply to noncommercial public speaking and public assembly activities conducted on any public space or public right-of-way.]
[Sec. 14-72. Same Specific acts]

(b) The following acts, and the causing or permitting thereof (subject to specific exemptions or exceptions), are declared to be unreasonably loud, harsh, unusual or unnecessary noises in violation of the Noise Ordinance: [sections 14-70 through 14-80:]

- (1) The sounding of any horn or other such audible signaling device on any vehicle for an unnecessary and unreasonable period of time.
[Maintaining any machinery or equipment, whose operation involves rotating or reciprocating parts or equipment in such a manner as to create a noise disturbance across a dwelling unit boundary.]
- (2) The use or operation, or permitting the use or operation, of any radio, receiver, stereo, speaker, amplifier, television, musical instrument, phonograph, computer, or other machine or device for the producing or reproducing of sound which is cast upon the public streets or rights-of-way, whether in or on a sound truck or otherwise, for the purpose of commercial advertising or attracting the attention of the public to any building or structure.
[Operating or permitting the operation of any tools or equipment used in construction, drilling or demolition work between the hours of 11:00 p.m. and 7:00 a.m., prevailing local time, such that the sound therefrom creates a noise disturbance across a dwelling unit boundary, except for emergency work of public service utilities or by special variance as provided for in section 14-74. This paragraph shall not apply to the use of domestic power tools subject to subsection (3) of this section.]
- (3) The use or operation of a vehicle in such a manner as to produce any loud, harsh, or excessive noise, or to discharge into the open air the exhaust of any steam engine, stationary internal combustion engine, motor boat

~~or vehicle, except through a muffler or other device that will effectively prevent loud or explosive noises therefrom.~~

~~[Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, lawnmower or other similar device used outdoors that creates a noise disturbance across a dwelling unit boundary other than powered snow removal equipment, between the hours of 11:00 p.m. and 7:00 a.m., prevailing local time, or on Saturday or Sunday before the hour of 9:00 a.m., prevailing local time.]~~

- (4) The use of any vehicle so out of repair or loaded in such manner as to create loud or unnecessary grating, grinding, rattling, or other noise.

~~[Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans or similar objects between the hours of 11:00 p.m. and 7:00 a.m., prevailing local time, in such a manner as to cause a noise disturbance across a dwelling unit boundary.]~~

- (5) The use or operation, or permitting the use or operation, of powered model vehicles, so as to annoy or disturb a reasonable person of normal sensitivities residing in the area, particularly between the hours of 9:00 p.m. and 7:00 a.m., prevailing local time, or on Saturday or Sunday before 9:00 a.m., prevailing local time.

~~[Collecting refuse or operating refuse collection vehicles between the hours of 11:00 p.m. and 5:30 a.m., prevailing local time, in such a manner as to create a noise disturbance across a dwelling unit boundary.]~~

- (6) Repairing, rebuilding, modifying, or testing any vehicle or motorboat so as to annoy or disturb a reasonable person of normal sensitivities residing in the area, particularly between the hours of 9:00 p.m. and 7:00 a.m., prevailing local time, or on Saturday or Sunday before 9:00 a.m.

~~[a. Using, operating or permitting the operation of any loudspeaker, public address system, mobile sound vehicle or similar device amplifying sound therefrom on a public right-of-way or public space for any commercial purpose.~~

~~b. Using, operating or permitting for any noncommercial purpose any loudspeaker, public address system, mobile sound vehicle or similar device between the hours of 11:00 p.m. and 7:00 a.m., prevailing local time, such that the sound therefrom creates a noise disturbance across a dwelling unit boundary.~~

~~(7) Operating or permitting the operation of powered model vehicles so as to create a noise disturbance across~~

~~a dwelling unit boundary or in a public place between the hours of 11:00 p.m. and 7:00 a.m., prevailing local time.~~

~~(8) Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument or similar device:~~

~~a. In such a manner as to create a noise disturbance across a dwelling unit boundary; or~~

~~b. In such a manner as to create a continuing noise disturbance at fifty (50) feet from such device, when operated in or on a motor vehicle on a public right-of-way or public space.~~

~~(9) Repairing, rebuilding, modifying, testing or operating any motor vehicle, motorcycle, motor bicycle or motorboat in such a manner as to cause a noise disturbance across a dwelling unit boundary.~~

~~(10) It shall be unlawful for any person to keep or harbor within the urban county any animal, including, but not limited to, domestic pets, that repeatedly or frequently emits any sound, including but not limited to barking, yelping, howling, meowing, or squawking, or that otherwise creates a noise disturbance across a dwelling unit boundary, in such a manner so as to annoy or disturb a reasonable person of normal sensitivities.]~~

(c) With the exception of those noise activities specifically prohibited in subsection (b) above, the standards which shall be considered in determining whether a violation of this section exists shall include, but shall not be limited to the following:

- (1) The volume of the noise;
- (2) The frequency of the noise;
- (3) The intensity of the noise;
- (4) The volume, frequency, and intensity of any background noise;
- (5) The proximity of the noise to a residential area, place of public accommodation such as a hotel, motel, and the like, health care facilities, churches, or schools;
- (6) The time of day the noise occurs;
- (7) The duration of the noise; and
- (8) Whether the noise is recurrent, intermittent, or constant.

(d) The following acts, among others, and the causing or permitting thereof (subject to specific exemptions), are specific, non-exclusive examples of noise activities which may be deemed violations of the Noise Ordinance: [Sec. 14-72. Same-Specific acts. The following acts, and the causing or permitting thereof, are declared to be in violation of sections 14-70 through 14-80]:

- (1) The use or operation, or permitting the use or operation, of any radio, receiver, stereo, speaker, amplifier, television,

musical instrument, phonograph, computer, or other machine or device for the producing or reproducing of sound in such a manner as to create a loud, harsh or excessive noise which annoys or disturbs a reasonable person of normal sensitivities residing in the area. Words and phrases need not be discernible for said sound to be "audible", and said sound shall include bass reverberation. This section shall not apply to a vehicle located in the areas specified in section 14-71.1.

- (2) The loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans or similar objects between the hours of 9:00 p.m. and 7:00 a.m., prevailing local time, or on Saturday or Sunday before 9:00 a.m. prevailing local time, or at any time or place so as to annoy or disturb a reasonable person of normal sensitivities residing in the area. These prohibitions do not apply where such activity occurs within loading facilities where the activity is inside an enclosed building or inside a truck box or trailer that is essentially included within the building by virtue of a weather seal.
- (3) The keeping or harboring of any animal, including, but not limited to, domestic pets, that continuously, repeatedly or frequently emits any sound, including but not limited to barking, yelping, howling, meowing, or squawking, or that otherwise creates noise in such a manner so as to annoy or disturb a reasonable person of normal sensitivities.
- (4) The use of any mechanical device(s) operated by compressed air, unless the noise created thereby is effectively muffled and reduced.

Sec. 14-71.1. Vehicle stereo noise.

Consistent with the other provisions of the Noise Ordinance, and in addition thereto, no person shall use or operate any radio, stereo, tape player, record player, compact disc player or any similar device for the producing, reproducing or amplification of sound in or on any vehicle which when located on the public streets or rights-of-way or within or on any other public property, including, but not limited to parks, or public parking lots operated by the urban county government or the Lexington and Fayette County Parking Authority/LexPark, in such a manner as to create a loud, harsh or excessive noise which annoys or disturbs a reasonable person of normal sensitivities by creating or allowing a louder volume than is necessary for the convenient hearing of person(s) who are in the vehicle and which is audible to a person of normal hearing sensitivity more than ten feet (10') from such vehicle. Words and phrases need not be

discernible for said sound to be "audible," and said sound shall include bass reverberation.

Sec. 14-72. Exceptions. ~~[Sec. 14-78. Exceptions to provisions of sections 14-70 through 14-80.]~~

None of the terms or prohibitions contained in the Noise Ordinance shall apply to or be enforced against ~~[The provisions of sections 14-70 through 14-80 shall not apply to the following]:~~

(1) Noise related to alerting persons to the existence of an emergency.

~~[The emission of sound for the purpose of alerting persons to the existence of an emergency, or for the performance of emergency work.]~~

(2) Noise related to the performance of an emergency response or emergency work, including activities of the urban county government, the state, or any public utility. ~~[Organized school-related programs, activities or events, or parades or other public programs, activities or events authorized by the mayor or his designated representative.]~~

(3) Noise related to necessary law enforcement, or those otherwise necessary for the health, welfare and safety of the community. ~~[The discharge of firearms by members of the division of police or other sworn peace officers.]~~

(4) Noise caused by sources regulated as to sound production by federal law. ~~[The operation of airplanes and aircraft both on and off airport property, the maintenance of same.]~~

(5) Noise related to the operation of any aircraft in conformity with, or pursuant to federal law or federal air regulations and/or air traffic control instructions.

(6) Noise related to the use of properly muffled domestic power tools or equipment (including but not limited to power lawn mowers, trimmers, blowers, tillers, saws, sanders, drills or similar devices) between the hours of 7:00 a.m. and 9:00 p.m., prevailing local time, except on Saturdays or Sundays, when such use shall be exempted beginning at 9:00 a.m.

(7) Noise resulting from the excavation, construction, demolition, repair, paving, or alteration of buildings or structures, or streets or rights-of-way between the hours of 7:00 a.m. and 9:00 p.m., prevailing local time, except on Saturdays or Sundays, when such use shall be exempted beginning at 9:00 a.m.

- (8) Noise related to agricultural and forestry operations within properly zoned areas.
- (9) Noise related to the collection and/or compaction of refuse or recyclable material, between the hours of 5:30 a.m. and 9:00 p.m., prevailing local time.
- (10) Noise created by bells, chimes and/or carillons on schools, public buildings, and other places of assembly not operating continuously for more than five minutes in any one hour.
- (11) Noise related to public affairs conducted, permitted, or authorized by the urban county government.
- (12) Noise related to parades and/or public assemblies provided all necessary permits have been obtained.
- (13) Noise related to lawful picketing or other public demonstrations protected by the Constitution or other laws.
- (14) Noise related to activities, events, or programs taking place on public property that are expressly authorized or permitted by the urban county government, including but not limited to festivals and entertainment events. The urban county government reserves the right, as a condition of this exemption, to impose upon the host or sponsor of such an event requirements consistent with the public notice requirements and other related requirements of the variance process in section 14-76.
- (15) (a) Noise related to special event activities (i.e., noise that is not related to the normal operations of the entities listed below), including, but not limited to, neighborhood or church festivals and entertainment events if the special event is: (a) conducted on property owned or operated by a school, civic, charitable, or religious organization, or neighborhood association, and (b) is being held for the benefit of such an entity, between 7:00 a.m. and 9 p.m., prevailing local time, except on Fridays, Saturdays, federal holidays or holiday eves, when such activities shall be exempt up until 11:00 p.m. Notwithstanding the above, this exemption is not intended to allow such property to be used in such a manner on a frequent basis without regard to the level of noise. The urban county government reserves the right, as a condition of this exemption, to impose upon the host or sponsor of such an event requirements consistent with the public notice requirements and other related requirements of the variance process in section 14-76.

(b) Any person intending to rely upon subparagraph (a) above, as an exemption must provide the urban county government's

noise officer with at least fourteen (14) days advanced written notice of the event.

- (16) Noise related to the actual performance of organized sporting events, or school or organized recreational activities, including but not limited to band practices, club use, and athletic practices taking place on school campuses or in publicly owned or operated parks, playgrounds, facilities, or recreation areas, during the hours that they are normally open for such use.
- (17) Noise related to fireworks displays, provided all necessary permits have been obtained, and said display concludes by no later than the hour of 10:30 p.m., prevailing local time Sunday through Thursday, or 11:30 p.m., prevailing local time Friday or Saturday or on a federal holiday or holiday eve.
- (18) Noise for which a variance has been granted pursuant to section 14- 14-76.

Sec. 14-73. Rules and regulations.

The commissioner of public safety or his designee is hereby empowered to prescribe, adopt, promulgate, and enforce rules and regulations relating to any matter or thing pertaining to the administration or enforcement of the Noise Ordinance, which are not otherwise inconsistent with the Noise Ordinance.

~~[Sec. 14-73. Right of entry of law enforcement officer to investigate noise disturbance.~~

~~Any urban county government law enforcement officer, in addition to any authority vested in him, has the power, upon presentation of proper credentials, to enter and inspect any dwelling, multifamily dwelling, building, structure or premises within the county as may be necessary to enforce the provisions of this section. Needed permission is to be obtained from the occupant or, in the case of unoccupied property, from the owner or his agent. If such permission is refused or is otherwise unobtainable, a search warrant must be obtained upon the showing of probable cause to believe that a violation of sections 14-70 through 14-80 may exist, before such entry or inspection is made.]~~

Sec. 14-74. Noise officer.

The commissioner of public safety or his designee shall serve as the urban county government's noise officer (the "Noise Officer"), who shall have the powers, duties, and responsibilities specified herein. The noise officer shall review all applications for variances and may render decisions granting, denying, renewing, reinstating, suspending or revoking variances in accordance with the requirements and procedures specified in the noise ordinance; assist the Noise Board; advise, consult, and cooperate with any public or private agency, including departments or divisions of the urban county government in matters

related to the noise ordinance; and investigate or assist in investigating any noise complaint that has been made to or referred to the government.

Sec. 14-75. Noise board.

(a) The Noise Board, which shall also be referred to as the board, is hereby created and established. The board shall consist of eight (8) members. The Noise Officer shall automatically serve as a nonvoting member of the board. The remaining members must be residents of Fayette County and are to be appointed by the mayor and approved by the council. The appointed board members shall consist of one (1) professional in a field related to noise issues, who is a voting member of the board; four (4) citizens at large, all of whom are voting members of the board; one (1) representative of the construction or manufacturing industry, who is an ex-officio, nonvoting member of the board; and one (1) representative of the music industry, who is an ex-officio, nonvoting member of the board.

(b) The presence of three (3) or more voting members of the board shall constitute a quorum, and the affirmative vote of three (3) or more voting members shall be necessary for any official action to be taken.

(c) The terms of the appointed members shall be four (4) years from the date of appointment, provided the terms are staggered in the manner required by section 7.02 of the Urban County Charter. No appointed member shall serve more than two (2) consecutive terms. Vacancies shall be filled in the same manner as the original appointment, and the successor shall be appointed for the unexpired term. Members shall serve without remuneration.

(d) An appointed member of the Noise Board shall be removed only by a majority vote of the council, and only for cause, except that an appointed member of the noise board shall automatically be removed by operation of law in the event of three (3) unexcused absences, whether consecutive or non-consecutive, in a two (2) year period or in the event of absence from at least twenty-five (25) percent of the meetings in a two (2) year period. An unexcused absence is any absence in which the chair of the noise board or the clerk of the urban county council is not notified of the intended absence at least twenty-four (24) hours in advance of a regularly scheduled meeting. In the event of three (3) unexcused absences or the absence from at least twenty-five (25) percent of the meetings over a two (2) year period, within the meaning of this section, the clerk of the urban county council shall notify the mayor and council administrator that a vacancy exists on the Noise Board.

(e) The board shall elect its own chairperson and vice chairperson at its first meeting of each year from among the voting members of the board, and shall determine its own schedule of meetings. The noise board may appoint a secretary and other officers it deems necessary, adopt its own bylaws and rules of procedure, and shall keep a record of its proceedings and transactions.

Sec. 14-75.1. Powers of board.

The Noise Board is empowered to:

- (1) Review applications for variances and render decisions within the time specified;
- (2) Issue decisions granting, denying, renewing, reinstating, suspending, or revoking variances;
- (3) Hold hearings consistent with its powers, duties and responsibilities;
- (4) Review noise complaints that are referred to it or that are directly requested by a complainant pursuant to the noise ordinance;
- (5) Develop procedures, guidelines and rules relative to the conduct of its meetings and to other matters it considers appropriate to noise control;
- (6) Evaluate the effectiveness of the Noise Ordinance and recommend amendments, additions, or deletions; and
- (7) Recommend the institution of public education program(s) regarding sound and noise, including the collection, publication and dissemination of appropriate literature and information, and the enlisting of cooperation by public, civic, scientific, and educational groups; assist in developing long-term objectives for achieving reduction of sound levels in the community, and developing means for implementing these objectives into the long-range planning process.
 - (a) The Noise Officer and the Noise Board are also authorized to review and investigate noise complaints, including those related to compliance with a variance.
 - (b) Any person detrimentally impacted by noise may file a written request with the Noise Officer to have the noise investigated.
 - (1) Upon receiving a complaint, the noise officer and/or the chair of the Noise board will review the complaint in a manner consistent with section 14-71. The chair of the Noise Board may determine that a preliminary hearing or mediation involving the appropriate parties should take place regarding the complaint, and upon doing so shall notify the appropriate parties in writing of this recommendation.
 - (2) The Noise Officer or Noise Board may issue a non-binding written assessment as to whether the noise is likely a violation of the Noise Ordinance, which may also include recommended actions.
 - (3) The complainant(s) and source of the noise may agree at any time to take appropriate action to reduce or eliminate the noise.

(4) The above process is not intended to limit in any way a person's rights under the Noise Ordinance or any other law.

(c) In the event that there is a pending criminal case related to the noise (i.e., a criminal citation or complaint has been issued or brought against the alleged noise source for that same type of noise which has not been resolved) the complainant and the alleged violator may agree, with any appropriate and necessary approval from the Fayette County Attorney's Office and the Fayette District Court, to participate in mediation with the Noise Officer or Noise Board as provided in subsection (b), above.

Sec. 14-75.2. Board hearings.

(a) Prior to conducting a public hearing pursuant to the Noise Ordinance, the Noise Board shall provide the applicant and any person filing a statement with advance written notice of the date and time of the hearing.

(b) The chair of the Noise Board shall preside over the hearing and shall regulate the course of the proceedings in a manner which will promote the orderly and prompt conduct of the hearing.

(c) The Board shall recognize any person or entity claiming to be injuriously affected or aggrieved by the issuance of a variance as a party to the hearing.

(d) To the extent necessary for the full disclosure of all relevant facts and issues, the chair shall afford all parties the opportunity to respond, present documentary or tangible evidence, conduct cross-examination, and submit rebuttal evidence. However, the chair may limit repetitive testimony and evidence.

(e) Any party to a hearing may participate in person or may be represented by an attorney.

(f) If an applicant fails to attend or participate in a hearing, the Noise Board may adjourn the proceedings and issue a denial of the application for variance.

(g) All testimony shall be made under oath or affirmation. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings. All testimony shall be accurately and completely recorded; however, the urban county government is under no obligation to provide a transcript.

(h) Any part of the evidence may be received in written form, if doing so will expedite the hearing without substantial prejudice to the interests of any party, or if such practice is authorized by statute. Any party shall have the right, upon reasonable request, to inspect the documentary or tangible evidence relating to the hearing, either in person or through counsel.

(i) Objections to evidentiary offers may be made by any party and shall be noted in the record.

(j) The Noise Board may take official notice of any matter for which a court of the Commonwealth of Kentucky could take notice.

Sec. 14-76. Variance. ~~[[Sec. 14-74. Mayor authorized to grant special variances relative to noise disturbances].~~

(a) Any person who owns, controls, or operates any sound source which does not comply with provisions or standards of the Noise Ordinance may apply for a variance from such standard(s) or provision(s) based upon an inability to come into full compliance without creating an unreasonable hardship to the applicant and/or the community.

(b) Application. The application shall be submitted for review on a form provided by the urban county government, which shall include the following:

- (1) The date, time, and location of the event or activity (including the nature and intensity of the noise, estimates of the range and impact according to times of day and location(s) and the number of person(s) affected);
- (2) The section(s) of the noise ordinance from which a variance is sought;
- (3) The reasons for which the variance is being sought (including any hardship to applicant or public if not granted);
- (4) All actions taken to comply with the Noise Ordinance (modifications to operations, construction measures, noise monitoring, etc.);
- (5) A proposed method for achieving compliance; and
- (6) A proposed time schedule for its accomplishment.

If the applicant believes that full compliance with the provisions of the Noise Ordinance cannot be feasibly achieved, the application shall also set forth: (1) the reasons for such belief; (2) the actions which have been taken to comply with the Noise Ordinance; (3) a proposed method of fully complying with the Noise Ordinance as nearly as is feasible; and (4) a proposed time schedule for its accomplishment. A separate application shall be filed for each noise source, provided, however, that several mobile sources under common ownership or several fixed sources on a single property may be combined into one application. The applicant may be required to supply additional information. The application shall not be considered submitted until all information has been supplied along with a non-refundable application fee in the amount of one hundred dollars (\$100.00). It is the responsibility of the applicant to submit the application in proper form, and to allow sufficient time for review, as specified in subsection (g), below.

(c) The Noise Officer shall initially review each application to determine whether review by the Noise Board is required, and if necessary, shall consult with the chair of the Noise Board. The criteria for this determination shall be whether the noise impact is deemed significant in duration, level, or in numbers of persons or property affected. If the potential noise impact is deemed not to be significant, the application will be reviewed by the Noise Officer, and a variance shall be granted, although it may include conditions as provided for in subsection (h), below. If the potential noise impact is deemed to be significant, the review will be made by the Noise Board.

(1) The application for a variance for activities related to construction (subsection 14-72(7)) will normally be reviewed and determined by only the Noise Officer, absent unusual circumstances.

(2) The application for a variance for activities of a permanent or semi-permanent duration will normally be reviewed and determined by the noise board unless the chair of the Noise Board and the Noise Officer agree that the noise impact is not significant.

(d) Review of the application on its merit shall be based upon a balancing of the hardship to the applicant, the community, and other persons of not granting the variance against the adverse impact on the health, safety, and welfare of persons affected, the adverse impact on property affected, and any other adverse impacts of granting the variance, and shall include consideration of at least the following:

- (1) The physical characteristics, times and durations of the emitted sound;
- (2) The geography, zoning, and population density of the affected area;
- (3) Whether the public health, safety or welfare is impacted;
- (4) Whether the sound source predates the receiver(s);
- (5) Whether compliance with the standard(s) or provision(s) from which the variance is sought would produce hardship without equal or greater benefit to the public; and
- (6) Reasonable and feasible measures taken to reduce or eliminate the noise.

(e) Applicants for variances and persons contesting variances may be required to submit any information the Noise Officer or the Noise Board may reasonably require.

(f) Public notification.

- (1) The Noise Officer may require that the applicant give notice of the application for variance to persons who frequent the area of the sound or activity and may be adversely affected by the granting of the variance, including but not limited to those property owners located within four hundred (400) feet of the property from which

the noise emanates. Any individual who claims to be adversely affected by allowance of the variance may file a statement with the Noise Officer containing any information to support his or her claim.

- (2) Notice of receipt of all applications to be reviewed by the noise board shall promptly be published on the urban county government's website. Additional notice shall also be given by the applicant to affected neighborhood association(s), or owners and residents of property likely to be affected by the application, including, but not limited to those property owners located within four hundred (400) feet of the property from which the noise emanates, and to any person who has in writing requested notice of such application. Any individual who claims to be adversely affected by allowance of the variance may file a statement with the Noise Officer containing any information to support his or her claim. If the chair of the Noise Board finds that a sufficient controversy exists regarding an application, a public hearing may be held.

(g) Time for review and decision. Applications to be reviewed by the noise officer shall normally be decided within ten (10) business days of receipt of the completed application. Applications to be reviewed by the noise board shall normally be decided within forty-five (45) business days of receipt of the completed application. Should the applicant require more accelerated review than that provided above, the process may be shortened to no more than three (3) business days for review by the noise officer, or seven (7) business days for review by the Noise Board, upon payment of an additional surcharge in the amount of the original application fee, and provided the chair of the Noise Board and the Noise Officer conclude that such accelerated review is sufficient for evaluation, and in the urban county government's interest. The above review deadlines may be extended for good cause by the Noise Officer or the chair of the Noise Board; however, in granting any such extension, due consideration must be given the prejudicial impact that such an extension may have on the applicant or any affected party.

(h) Variances may be granted, denied, granted or denied in part, or granted with conditions. All decisions shall be in writing and contain all terms, conditions, and requirements that the noise officer or the noise board deems reasonably necessary, including any time limit on the permitted activity, the maximum allowable noise level, which may be in the form of decibels, and the operating hours, and shall be made available to the applicant and any other person who has requested such decisions, and a copy shall be placed on public file. Those decisions made by the Noise Board shall state the facts and reasons leading to the decision. The variance shall not become effective until all conditions are agreed to by the applicant.

(i) Noncompliance with any condition of the variance shall terminate it and subject the person holding it to those provisions of the Noise Ordinance

regulating the source of sound or activity for which the special variance was granted, including enforcement actions.

(j) Variances may be subject to review by the urban county government.

(k) Any substantial modification to an existing variance shall require that an application be filed, which shall be treated like an initial application for a variance.

(l) Any final written determination of the Noise Officer or the Noise Board may be appealed to Fayette Circuit Court as otherwise provided by law.

~~(a) The mayor or his designated representative shall have the authority, consistent with this section, to grant special variances to those persons who can demonstrate that bringing a source of sound or activity into compliance with sections 14-71 and 14-72 would constitute an unwarranted health hazard or an unreasonable economic hardship upon the applicant.~~

~~(b) Any person seeking a special variance pursuant to this section shall file a written application with the mayor or his designated representative. The application will be provided by the mayor or his designated representative. The application shall contain reasons why an unwarranted health hazard or an unreasonable economic hardship would result if the applicant was required to comply with sections 14-71 and 14-72. The mayor or his designated representative additionally may require that the applicant give notice of the application for special variance to persons who frequent the area of the sound or activity and may be adversely affected by the granting of the variance. Any individual who claims to be adversely affected by allowance of the special variance may file a statement with the mayor or his designated representative containing any information to support his claim.~~

~~(c) In determining whether to grant or deny the application, the mayor or his designated representative shall balance the hardship to the applicant, the community and other persons of not granting the special variance against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on property affected and any other adverse impact of granting the special variance. Applicants for special variances and persons contesting special variances may be required to submit any information the mayor or his representative may reasonably require. In granting or denying an application, the mayor or his representative shall place on public file a copy of the decision and the reasons for denying or granting the special variance.~~

~~(d) Special variances shall be granted by notice to the applicant containing all necessary conditions including a time limit on the permitted activity. The special variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any conditions of the special variances shall terminate it and subject the person holding it to those provisions of this section regulating the source of sound or activity for which the special variance was granted.~~

~~(e) Application for extension of time limits specified in special variances or for modification of other substantial conditions shall be treated like application for initial special variances.~~

~~(f) The mayor or his designated representative may issue guidelines defining the procedures to be followed in applying for a special variance and the criteria to be considered in deciding whether to grant a special variance.]~~

Sec. 14-76.1. Existing industrial or commercial properties.

(a) Any industrial or commercial facility already in existence prior to the effective date of the Noise Ordinance, as revised, or for which the improvement work had already begun, shall be allowed a six (6) month period commencing on the effective date within which to comply with the provisions of the Noise Ordinance if immediate compliance would create a hardship as to the operations of that facility. Such a facility may apply to the Noise Officer for an extension of time not to exceed a total of six (6) additional months, which shall be granted upon a showing of reasonable efforts made by the facility to come into compliance and the need for such additional time to fully comply.

(b) During the transition period provided in section (a), above, each facility shall make reasonable efforts to comply with, and to reduce noise which exceeds the standards in the Noise Ordinance. At the end of the transition period, the facility shall be subject to all of the applicable requirements of the Noise Ordinance.

(c) This section does not preclude the owner, operator, or person controlling a facility from applying for a variance pursuant to section 14-76. The Noise Officer or Noise Board shall consider the extent to which the applicant has attempted to reduce noise and comply with the Noise Ordinance during any transition period as an additional factor in the variance process.

(d) As used in this section "industrial facility" or "facility" means any building, structure, factory, plant, premises or portion thereof used for manufacturing or industrial purposes and "commercial facility" or "facility" means any building, structure, premise or portion thereof used for wholesale or retail commercial purposes.

Sec. 14-77[76]. Citation for violation [of sections 14-70 through 14-80].

Except where a person is acting in good faith to comply with an abatement order issued pursuant to section 14-77.1[76], violation of any provision of the Noise Ordinance [sections 14-70 through 14-80] shall be cause for a citation to be issued by an urban county government law enforcement officer.

Sec. 14-77.1[76] . Order of abatement of noise disturbance.

In lieu of issuing a citation as provided for in section 14-77[76], any urban county government law enforcement officer may issue an order requiring the immediate abatement of any source of sound alleged to be in violation of the Noise Ordinance [of sections 14-70 through 14-80].

Sec. 14-78[77]. Effect [of sections 14-70 through 14-80] on existing law.

No provision of the Noise Ordinance [~~sections 14-70 through 14-80~~] shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of these sections or from other law.

Sec. 14-79. Enforcement of other laws [~~not affected by sections 14-70 through 14-80~~].

Nothing in the Noise Ordinance [~~sections 14-70 through 14-80~~] shall be construed to permit conduct prohibited by any other statute, ordinance or regulation, or to prohibit the enforcement thereof.

Sec. 14-80. Penalty for violation [~~of sections 14-70 through 14-80~~].

Any person who violates any provision of the Noise Ordinance [~~sections 14-70 through 14-80~~] shall be punished by a fine of not less than one hundred dollars (\$100.00) [~~fifty dollars (\$50.00)~~] nor more than one thousand dollars (\$1,000.00) [~~five hundred dollars (\$500.00)~~]. Any person found guilty of a second offense of any of these sections within any twelve-month period shall be subject to a fine of not less than two hundred dollars (\$200.00) [~~one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00)~~], and any person found guilty of a third or greater offense of any of these sections within any twelve-month period shall be subject to a fine of not less than five hundred dollars (\$500.00) [~~two hundred-fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00)~~].

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FY 11 CAP Budget

Revenue

Adult Probation Drug Test	107,218
CAP Drug Testing	425,468
Electronic Monitoring	71,254
Not Coded	975

Total Revenue	604,915
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Expenses

Personnel (Salary & Benefits)

Staff Member # 1	80,747
Staff Member # 2	51,165
Staff Member # 3	51,977
Staff Member # 4	52,153
Staff Member # 5	53,963
Staff Member # 6	54,205
Staff Member # 7	63,008
Staff Member # 8	66,625

Total Personnel	473,843
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Operating Expenses (PS)

Professional & Contract Services	87,485
Telecommunications	1,071
Business Travel/Training	-
Operating Supplies	310,724
Clothing/Equipment - Public Safety	1,520
Equipment Less than \$5000	375
Repairs & Maintenance	202
Dues/Subscriptions/Publications	-

Total PS Operating Expenses	401,377
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Operating Expenses (LFUCG)

Rent (10,578/mos) (\$8/sq ft)	126,936
Electricity	8,273
Water	3,052
Gas (Heating)	1,836
Telephone (130.67/mos)	1,568
Vehicle Maint/Repairs	986
Vehicle Fuel	1,838

Total LFUCG Operating Expenses	144,489
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Total Expenses	1,019,709
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Profit/(Loss)	(414,794)
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FY 10 CAP Budget

Revenue

Adult Probation Drug Test	116,457
CAP Drug Testing	424,287
Electronic Monitoring	42,237
Not Coded	

Total Revenue	582,981
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Expenses

Personnel (Salary & Benefits)

Staff Member # 1	80,016
Staff Member # 2	50,790
Staff Member # 3	52,613
Staff Member # 4	51,832
Staff Member # 5	51,572
Staff Member # 6	52,473
Staff Member # 7	59,959
Staff Member # 8	64,930

Total Personnel	464,184
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Operating Expenses (PS)

Professional & Contract Services	46,769
Telecommunications	3,211
Business Travel/Training	-
Operating Supplies	290,462
Clothing/Equipment - Public Safety	-
Equipment Less than \$5000	-
Repairs & Maintenance	-
Dues/Subscriptions/Publications	-

Total PS Operating Expenses	340,443
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Operating Expenses (LFUCG)

Rent (10,578/mos)	126,936
Electricity	7,022
Water	2,534
Gas	3,592
Telephone (130.67/mos)	1,568

Total LFUCG Operating Expenses	141,652
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Total Expenses	946,278
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Profit/(Loss)	(363,297)
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Topic	Purpose	Status	Research	Report Out	Last Update
<u>Itinerant Merchant</u>	<u>to create Itinerant Merchant ordinance</u>	<u>In Task Force & moved to Economic Development</u>	<u>N/A</u>	<u>N/A</u>	<u>10-Oct</u>
Taxi Cab Ordinance	to revise Taxi Cab ordinance; decreasing # of cabs, addressing inspections	sent back to committee from Council	CM Lawless is researching this item.	unknown. Have requested monthly updates from Rick Curtis until resolved	10/31/2011
Nuisance Ordinance Revenues	Public Safety Link fy12; to determine actual revenue from nuisance abatements	just beginning research in peoplesoft financials	will continue to review data in peoplesoft. A meeting with revenue, code may be ideal	Ideally, this should be addressed prior to the creation of the fy13 budget	10/10/2011
Off Premises Signage	examine illegal placement of signage	Dewey Crowe sent email stating difficulty tracking this.	sign ordinance, identifying violators	?	10/31/2011
Emer. Mgmt. Long Range Plan	public safety link fy12; to create and pass an emergency management long range plan	Pat Dugger will be prepared to report out in January	would the committee want to hear about public aspect only? And does fire need to present also?	January 2011 Public Safety Committee Meeting	10/31/2011
Public Safety Disability Claims	to evaluate the process of determining disability of public safety workers	evaluate & review the current disability determination process	need all HR and collective bargaining policies relating to disability; claims data.	following pension task force work? Check with CM Martin	10/31/2011
Noise Ordinance	to amend the current Noise Ordinance for better enforcement	Ready for Report	None needed	15-Nov-11	10/31/2011
Paramedic Training		Vice Mayor created a fire and emer work group/task force; CM Bill Farmer, chair	Work Group member names needed; first meeting date/schedule - CM Lawless please check with CM Farmer	?	10/31/2011
Examine Nuisance Abatement	Public Safety Link fy12; to evaluate code enforcement nuisance abatement process for efficacy	holding; may relate to Nuisance Revenue Item listed above	collect data on current abatement process (flowchart, relating ordinances)	Ideally, this should be addressed prior to the creation of the fy13 budget	10/10/2011
Chronic Nuisance Ordinance	to amend the code of ordinance sections 12-60 thru 12-70 dealing with aggravated public nuisances	being amended	Keith & CM Henson will be meeting with Apartment Assoc and Law	Update will be available Nov 15th	10/31/2011

Topic	Purpose	Status	Research	Report Out	Last Update
Fireworks Ordinance	presentation of proposed amendments to fireworks ordinance	complete. 2nd Read at this week's Council Meeting	N/A	N/A	10/31/2011
Operation Brightside	Public Safety Link fy12; a program to address the removal of illegal right-of-way signage	holding; needs research	contact communities that utilize Brightside; nonprofits that may want to do this work	by spring, ideal	10/10/2011
Collective Bargaining Agreements	evaluation of Councils involvement in the Collective Bargaining Agreement process	Tuesday, Council will review another Collective Bargaining agreement (3/5?)	what is the intention of this in committee? CM Lawless to talk with CM Lane about status ?		10/10/2011
Fire/Fleet Services	Review fleet operations for Fire Services	Collecting data from comp municipalities			
Numerous Community Corrections Issu		Email sent on 10/7/11 to all relevant parties to ask about status; another email from CM Lawless 10/30	numerous	?	10/31/2011