ORDINANCE 97-32

To Amend Chapter 14.09 of the Bloomington Municipal Code Entitled "Noise Control" Re: Construction Operations

WHEREAS, Chapter 14.09 of the Bloomington Municipal Code declares that above certain levels, noise is detrimental to the health and welfare of the citizenry and should be proscribed; and

WHEREAS, Section 14.09.06 of the Bloomington Municipal Code currently exempts from noise level regulation construction operations that occur at any hour of the day; and

WHEREAS, the Bloomington Common Council has received numerous complaints concerning construction noise that has disturbed the peace and sleep of residents at night and on holidays; and

WHEREAS, a survey of other second class cities shows that it is common for cities to regulate construction operations during certain periods of time; and

NOW THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION 1. Section 14.09.060(b) of the Bloomington Municipal Code shall be amended by striking and substituting a new part (b) as indicated below:

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

(b) Construction operations for which building permits have been issued or construction operations for which a permit is not required shall be exempt from the noise control ordinance under the following conditions and with the following exceptions:

(1) Such operations that occur after sunrise from the first of May to the first of September and after 6:00 a.m. the rest of the year and before 10:00 p.m. all year round shall be exempt from the noise level regulations, except on Sundays and holidays, during which time such operations are subject to noise level regulations. However, in recognition of the work necessary to prepare and close a site each day, motor vehicles transporting heavy construction equipment or construction materials to and from construction sites at those times shall be exempt from the noise level regulations.

(2) Because of the loud and unusual sounds, and the ground vibrations associated with pile drivers, steam shovels, pneumatic hammers, and steam or diesel gasoline hoists, the operation of this equipment shall be exempt from the noise level regulations only when it occurs between the hours of 7:00 a.m. and 8:00 p.m. or when allowed by special permit.

(3) In order to be exempt from the noise level regulations, all equipment used in such operations shall be operated with the manufacturer's mufflers and noise reducing equipment in use and in proper operating condition.

SECTION 2. Section 14.09.020 of the Bloomington Municipal Code shall be amended by adding another definition at the end of the section which shall read as follows:

14.09.020 Definitions. As used in this chapter unless context clearly requires otherwise:

l. "Holidays" shall mean the following six days as observed according to I.C. 1-1-9-1: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

SECTION 3. Section 14.09.020 of the Bloomington Municipal Code shall be amended by

adding another definition at the end of the section which shall be lettered accordingly and shall read as follows:

m. "Pneumatic Hammers" when used in Section 14.09.060 shall mean pneumatic hammers that are driven by compressors with greater than ten (10) horse power or that use a hose with a diameter greater than three-eighths (3/8) of an inch.

SECTION 4. Severability. If any section, sentence, or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 5. This ordinance shall go into effect on January 1, 1998.

PASSED and ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 1 day of October, 1997.

ANTHONY PIZZO, President
Bloomington Common Council

ATTEST:

PATRICIA WILLIAMS, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 7th day of October, 1997.

PATRICIA WILLIAMS, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this 7 day of October, 1997.

JOHN FERNANDEZ, Mayor
City of Bloomington

SYNOPSIS

This ordinance amends Chapter 14.09 of the Bloomington Municipal Code entitled, "Noise Control" in regard to construction operations. Currently construction operations conducted with the proper mufflers are exempt from the sound pressure level limits for any hour of the day. This amendment would make construction operations that occur on Sundays and holidays, or outside of the hours of 7:00 a.m. to 7:00 p.m. on other days subject to the sound pressure level limits. *Note: two amendments (Am 1 and Am 4) were adopted by the Council which broadened the hours of exemption for some equipment and narrowed it for others.*

Signed copies:
BMC File
Clerk
CA/CA
Legal 5
Police Dept
Code Enforcement
Engineering
Public Works
Mayor's Office