

CITY OF CHARLOTTESVILLE, VIRGINIA

CITY COUNCIL AGENDA



Agenda Date: February 16, 2010

Action Required: Adoption of Ordinance

Presenter: James E. Tolbert, AICP, Director

Staff Contacts: James E. Tolbert, AICP, Director
Rich Harris, Deputy City Attorney

Title: Amendments to Noise Ordinance

Background: During the summer, residents of the Belmont Neighborhood raised concerns about noise coming from restaurants within their neighborhood. They were specifically concerned with a couple of restaurants that had started having music that goes on until late hours of the night and early morning. These establishments begin as restaurants and add music at a later date. Although there have been repeated calls to the police regarding noise problems, our current noise ordinance is not restrictive enough to reduce the impact in this neighborhood area.

Discussion: Staff believes that because the neighborhood commercial district is unique from other commercial districts, that a greater restriction on noise emanating from these restaurants is desirable. The residents in this neighborhood, by virtue of this being a neighborhood commercial district, often live in much closer proximity to the establishments than in other commercial areas. Music into the early hours of the morning disturbs the quiet enjoyment of their homes.

The current noise ordinance sets a maximum decibel level of no greater than 75dba after 11:00 p.m. This restriction obviously is not great enough in these areas where residents are much closer to the businesses than in other areas. After investigating ordinances from around the country in communities that encourage music, staff believes that changes to the requirements are appropriate

Below are results of our investigation from Virginia and Austin, Texas. One difficulty with the research is that the Virginia Supreme Court recently struck down the type of ordinance used in many communities. Those were subjective ordinances, that rather than set a decibel

limit, included language similar to “sound audible at a distance of 125 feet”.

Other issues with comparisons are:

- Most of these ordinances assume a venue that these codes address is located in a commercial zone and is not adjacent to residential zones.
- Many of these codes are a number of years old. Conversation with their staff indicates that there are not pressing issues that would cause them to be revisited.

The research we performed is shown below:

Harrisonburg

Noise

- Harrisonburg’s recently amended noise ordinance establishes a maximum nighttime sound level of 55 dB(A) when measured at or outside the property boundary between the hours of 10:00 p.m. and 6:00 a.m. Section 15-3-2(b)(i)
- This nighttime maximum is modified, however, for restaurants in Section 15-3-2(c): “no person shall permit, operate or cause any source of sound to create a sound level emanating from a restaurant during the hours of 6:00 p.m. and 2:00 a.m. in excess of 75 dB(A) when measured at or outside the property boundary.”

Austin, TX

We reviewed Austin’s noise ordinance because a blogger complained in response to Charlottesville’s 2008 noise ordinance adoption, “this is the kind of thing that keeps Charlottesville from becoming the Austin of the East.” Interestingly, Austin tightened up their noise ordinance in March, 2009 and subsequently several of their live music venues have had their permit revoked or have not been able to renew them as a consequence. The new ordinance restricts amplified sound at an outdoor music venue associated with a restaurant use to 70 decibels or less at the property line, and permits are required to host live music. (See: http://www.ci.austin.tx.us/development/downloads/music_venue.pdf). Outdoor Music Venue is defined as commercial property where sound equipment is used to amplify sound that is not fully enclosed by permanent, solid walls and a roof.

Noise

§9-2-4 Restriction on Decibel Level.

A person may not operate sound equipment at a business that produces sound:

(1) In excess of 85 decibels between 10:00 a.m. and 2:00 a.m., as measured at the property line of the business; or

(2) Is audible at the property line of the business between 2:00 a.m. and 10:00 a.m.
Source: 1992 Code Section 10-5-4; Ord. 031023-13; Ord. 031211-11

*§9-2-5 Restriction On Use of Sound Equipment in a Residential Area.

(A) This section applies to property zoned as residential under Section 25-2-32(B) (Zoning Districts and Map Codes).

(B) A person may not use sound equipment that produces sound audible beyond the property line of a residence in a residential area between 10:00 p.m. and 10:00 a.m.

*Note that if in residential area “no” sound is to be audible on the residential property. In talking to Austin staff they use 55 Dba to indicate no noise. If less than that it is ok.

Fredericksburg

- Fredericksburg’s noise ordinance is in the process of being revised and we were unable to obtain a draft at the time of this writing.
- The ordinance currently in effect defines nighttime hours as the hours between 10:01 p.m. and one day and 6:59 a.m. the following day for residential properties or areas and 12:01 a.m. and 5:59 a.m. the same day for nonresidential properties or areas.
- The current ordinance limits sound levels being generated to 85 dB(A) during daytime hours and 70 dB(A) during nighttime hours.

Williamsburg

Outdoors

Receiving Property	Residential Property or residential portion of a	Non-residential facility including non-residential
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Category	multi use property.		portion of multi-use facility
Time	7 am – 11 pm	11 pm – 7 am	24 hours
Maximum A – Weighted sound Level standard, dB	65	55	65

Indoors

Receiving Property Category	Residential Property or residential portion of a multi use property.		Non-residential facility including non-residential portion of multi-use facility
Time	7 am – 11 pm	11 pm. – 7 am	24 hours
Maximum A – Weighted sound Level standard, dB	55	50	55

Also attached is a Decibel (loudness) Comparison Chart furnished to me at the last meeting.

On January 21st a meeting was held with members of the Belmont Community to discuss the noise issue. Staff's take on the meeting was that most residents are in favor of a lower decibel limit in the neighborhood. Several expressed concern about the lower level and some were concerned about measurement of bass levels. However staff feels the overall consensus was for a lower level.

Attached is a memo dated 1/18/10 from Lt. Sandridge to Chief Longo outlining noise readings taken recently at Bel Rio. As you can see several were less than the current 75 dba level but more than the proposed level of 55 dba.

Alternative: Since the study of this issue has become public, several citizens have asked that the ordinance protect any residential property adjoining a restaurant. This can be accomplished by changing Section 16.11 by adding this alternative sentence:

Where a residential property adjoins the source where the sound is created the maximum dba level between 11 pm and 6 am shall be fifty-five dba when measured at the property line.

Budgetary Impact: None.

Recommendation: As you can see there are a range of decibel levels used by communities to address noise concerns. Clearly several communities including Harrisonburg, Austin, and Williamsburg use a dba level at or below the level of 55dba recommended in our proposed ordinance. Staff believes that this is the appropriate level to use in zoning classifications such as neighborhood commercial where there are residents adjacent to businesses. It is proposed to change the noise ordinance Section 16-11 to limit noise in the Neighborhood Commercial Corridor District to no greater 55 decibels after 11:00 p.m. The attached ordinance establishes these restrictions. *(Note that language referencing the Neighborhood Commercial Corridor District description has been added to the proposed ordinance since the first reading.)* The alternative ordinance would apply this restriction to all residential areas.

Attachment: Proposed Ordinances (Alternative A or Alternative B)
Decibel Comparison Chart
Police Memo

Alternative A

**AN ORDINANCE
AMENDING AND REORDAINING SECTION 16-11
OF CHAPTER 16 (NOISE CONTROL) OF THE
CHARLOTTESVILLE CITY CODE, 1990, AS AMENDED,
RELATING TO NOISE FROM RESTAURANTS IN THE
NEIGHBORHOOD COMMERCIAL CORRIDOR DISTRICT.**

BE IT ORDAINED by the Council for the City of Charlottesville, Virginia, that Section 16-11 of Chapter 16 of the Code of the City of Charlottesville, as amended, is hereby amended and reordained, as follows:

Sec. 16-11. Sound levels; restaurants.

No person shall permit, operate or cause any source of sound to create a sound level emanating from a restaurant during the hours between 11:00 p.m. and 6:00 a.m. in excess of seventy-five (75) dB(A) (55 dB(A) in the Neighborhood Commercial Corridor district, described at City Code Sec. 34-541) when measured at or outside the property boundary.

Alternative B

**AN ORDINANCE
AMENDING AND REORDAINING SECTION 16-11
OF CHAPTER 16 (NOISE CONTROL) OF THE
CHARLOTTESVILLE CITY CODE, 1990, AS AMENDED,
RELATING TO NOISE FROM RESTAURANTS IN THE
NEIGHBORHOOD COMMERCIAL CORRIDOR DISTRICT.**

BE IT ORDAINED by the Council for the City of Charlottesville, Virginia, that Section 16-11 of Chapter 16 of the Code of the City of Charlottesville, as amended, is hereby amended and reordained, as follows:

Sec. 16-11. Sound levels; restaurants.

No person shall permit, operate or cause any source of sound to create a sound level emanating from a restaurant outside of the Downtown Business District during the hours between 11:00 p.m. and 6:00 a.m. in excess of ~~seventy-five (75)~~ fifty-five (55) dB(A) when measured at or outside the property boundary.