

**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



Agenda Date: July 19, 2010

Action Required: Adoption of Ordinance

Presenter: James E. Tolbert, AICP, Director of NDS

Staff Contacts: James E. Tolbert, AICP, Director of NDS
Tim Longo, Chief of Police

Title: Amendment to Noise Ordinance in Neighborhood Commercial Zone

Background: Approximately five months ago staff brought a proposal to the City Council to lower the noise limits in the Neighborhood Commercial Zone after 11:00 p.m. to 55 decibels. At that time, the limit was set at 75 dba for any restaurant in the city after 11:00 p.m. After the public hearing and much debate, Council amended the code to set the limit at 65 dba after 11:00 p.m. in Neighborhood Commercial Zones.

Since that action, the zoning ordinance has been amended to redefine/rename restaurants and music halls. Those are now called restaurants and music halls. The noise ordinance is now not consistent with the zoning ordinance because of the naming change.

Discussion: As shown by the attached reports from the Police Department the change to 65 dba has had little impact on the number of calls for service. The number of emails received by Council and Staff indicate that little has changed from the residents' perspective, and in fact, the noise level readings are no different than they were under the 75 dba limits. It appears that some of the reason for the continued complaints is that the music level did not change but the code also changed where

measurements are taken. The new code requires measurement at the residential property line rather than at the business property line. This additional 50 or so feet results in a lower reading for the same sound that was previously a problem.

City Council has asked that possible changes to the noise ordinance be placed on this agenda. Attached is an ordinance amendment that lowers the allowed decibel limit in the Neighborhood Commercial Zone from 65 dba to 55 dba after 11:00 p.m. The amendment also changes the reference to restaurants and music halls.

Alternative: One alternative might be to leave the decibel level at 65 dba but change the location where the reading is taken back to the business property line. However, as the attached reports indicate, that will not resolve the issue on most nights when complaints are received.

Budgetary Impact: None.

Recommendation: Staff recommends the adoption of the attached ordinance that reduces the decibel level in the Neighborhood Commercial District to 55 dba and replaces the word restaurant with restaurant and music hall.

Attachment: Ordinance
Police Report

**AN ORDINANCE
AMENDING AND REORDAINING SECTION 16-11
OF CHAPTER 16 (NOISE CONTROL) OF THE CODE
OF THE CITY OF CHARLOTTESVILLE, 1990, AS AMENDED,
REGULATING NOISE LEVELS FROM MUSIC HALLS
AND REDUCING THE MAXIMUM NOISE LEVEL IN THE
NEIGHBORHOOD COMMERCIAL CORRIDOR DISTRICT.**

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia, that Section 16-11 of Chapter 16 of the Charlottesville City Code, 1990, as amended, is hereby amended and reordained, as follows:

Sec. 16-11. Sound levels; restaurants and music halls.

No person shall permit, operate or cause any amplified sound to create a sound level emanating from a restaurant or music hall during the hours between 11:00 p.m. and 6:00 a.m. in excess of seventy-five (75) dB(A) (~~sixty-five (65)~~ fifty-five (55)) dB(A) in the Neighborhood Commercial Corridor district, described at City Code section 34-541) when measured at a residential property boundary.

Bel Rio Noise Summary

In the last three months, the Police Department has regularly checked the area of Bel Rio for noise violations, in addition to responding to complaints from citizens. Readings were taken if a citizen complaint was made and music was playing, or the noise appeared to be above the appropriate level.

This table represents the readings that were taken on Douglas Ave., from the property of the complainant, or the closest residence if the complainant didn't leave their name. This arbitrary residence is basically across the street from the rear corner of the business, for comparison to the next set of readings, these were taken nearest to the side or rear of the business.

Mar. 11, 2300 hours	226 Douglas Ave	52 db
Mar. 19, 0045 hours	228 Douglas Ave	55 db
Mar. 19, 2359 hours	228 Douglas Ave	57 db
Mar. 21, 0030 hours	Douglas Ave	56 db
April 2, 2250 hours	228 Douglas Ave	57 db
April 30, 0023 hours	Douglas Ave	57 db
April 30, 0103 hours	Douglas Ave	60 db
May 14, 0020 hours	228 Douglas Ave	59 db
May 21, 0105 hours	228 Douglas Ave	58 db
May 28, 0015 hours	228 Douglas Ave.	59 db
May 28, 0020 hours	228 Douglas Ave	60 db
Average		57 db

This table represents the readings that were taken from different locations around the business.

	<u>Front</u>	<u>Side</u>	<u>Rear</u>
Mar. 12, 2339 hours	59.3	65.2	65.9
Mar. 26, 2344 hours	59	56.5	52.4
Mar. 27, 0038 hours	57.7	50.6	50.9
May 7, 0108 hours	77.3	76.4	76.9
Average	63 db	62 db	62 db

I have included both tables so that you might see the variations around the business.

The total average of all readings is 58 db.

On May 7, 2010, at 0108 hours, a series of readings were taken that were measured at **77.3db**, **76.4 db**, and **76.9 db**. The responding officer warned an employee, and the music was lowered immediately while he waited. Police responded back to the restaurant at 0156 hours, for another complaint of loud music, there was no music playing, and the patrons were leaving quietly.

Police received 24 loud music calls for service, on 21 nights, over the course of 93 days. (March 1- June 1, 2010). Readings were noted 15 times. There was one violation, and one 65 db reading, during this three month period. Police responded to several calls of loud music and there was no music playing upon their arrival. On every occasion that I am aware of, when asked to adjust the music, Bel Rio did so, even though they were only in violation one time. There is an exception to this of one occasion where the officer did not notice a difference in the bass when he asked them to turn it down, but it was not in violation before the request, and he didn't stay inside while they made the adjustment.

Lastly, the Police Department has been contacted by a gentleman from the Belmont Residents Association, who working with Bel Rio, is attempting to come up with a solution for Bel Rio to be able to monitor their own noise levels. They requested the Police assist with some readings so that Bel Rio would have a reference point for a noise meter that they would place inside of the business to monitor the noise levels. We have agreed to do so, but the meeting has not taken place yet.

Bel Rio Noise Summary

<u>Total Averages</u>	<u>front</u>	<u>side</u>	<u>rear</u>
(21 readings)	62 db	59 db	63 db

Citizen Complaints

Jan. 10, 0003 hours		69	60(residence)
Jan. 17, 0003 hours	70	65	58.9
Jan. 21, 0017 hours			65-70
Feb. 13, 0030 hours	74		72
Feb. 19, 2330 hours	64		63
Feb. 27, 2301 hours	77.3 *	92.6 *	82*(see below)
Averages	71	76	67

The Police Department has taken nightly readings as often as practical around the business in addition to regularly patrolling the area. If a citizen complaint was received we tried to take readings from their homes as well as at the business. If the complainant refused to leave their name, readings were taken from the property line of the business.

* These readings were the highest ever taken. The manager complied immediately upon her warning. When the Officer returned to take additional readings, (as routine, not citizen complaint) they were not in violation, but she greeted the officer, and turned the music off completely.