



Date of Council Meeting: June 9, 2014

**TOWN OF LEESBURG
TOWN COUNCIL MEETING**

Subject: Town of Leesburg Amended Noise Ordinance

Staff Contact: Scott E. Parker, AICP, Assistant Town Manager

Issue: Should the Town consider amending the current Town Noise Ordinance?

Background: On March 25, 2014, Town staff presented a proposal for an amended Noise Ordinance. After the meeting, staff put together information related to the new ordinance to help explain the changes and posted it to the website. An information sheet that provided a pertinent comparison of the current ordinance and the proposed ordinance was attached, as well.

Given the public interest in the new ordinance, staff hosted a community meeting on Monday, April 7, 2014 in the Rose Garden of Town Hall, in order to provide a demonstration of decibels over various distances. Staff set up music and a PA system, as one might find at an outdoor music venue, and established defined distances of 50, 100 and 150 feet at which decibels were measured. The music consisted of various styles of music through an iPod, as well as live acoustic guitar and vocal demonstration by a local musician, all routed through a PA system. Various decibels were measured over distance. The decibel ranges attained varied between a low of 55-60 dbA at 150 feet and a high of 80-85 dbA at 50 feet.

As described at the Public Hearing on March 25, the proposed ordinance amendment that was submitted did not establish a decibel limit standard within commercial areas as it affects other commercial areas during the hours that were proposed to relieve said commercial areas of the plainly audible standard. As currently proposed, the establishment of a maximum decibel standard only pertains to commercial affecting residential.

The staff group working on the ordinance has determined that the only practical way to regulate noise from one commercial venue to another, outside of the plainly audible standard, would be the establishment of a decibel standard measured from the property line of the property receiving noise. In the absence of a decibel standard, it would be incumbent upon business owners that find themselves at odds with each other to cooperate and find balance. Otherwise a decibel standard of some sort will have to be instituted.

If the Council does not wish to change the current Ordinance, permitting of outdoor amplification would still be required. Staff sees a benefit of keeping a permit process in place should the current ordinance not change. Currently, with the issuance of a permit for outdoor amplification, the time allowed for such use of external amplification is from 10:30 a.m. until 8:00 p.m. Any change to this time frame would be a Council decision.

It should be noted that at the Economic Development Commission (EDC) meeting of May 7, 2014, the EDC passed a motion (Attachment 1) that asks the Town Council to defer a decision on the proposed noise ordinance until a facilitated forum for residents and businesses is held.

Action Requested:

1. Is there a desire to amend the current ordinance that has as its basis the “Plainly Audible” standard that applies town-wide?
2. If there is not a desire to change the current ordinance, does the Council desire to make changes to the permitting process for outdoor amplification? And if so, should the hours the permits are in effect be amended?
3. If there is a desire to change the ordinance, does the Council wish to establish a decibel based noise ordinance town-wide, or a hybrid approach as previously forwarded by staff?
4. If a decibel based approach is desired, what should that decibel limit be?

Scott E. Parker, AICP
Assistant Town Manager

Attachments:

1. Resolution of the Economic Development Commission

May 14, 2014

The Honorable Kristen C. Umstatt
Mayor, Town of Leesburg and Leesburg Town Council
25 West Market Street
Leesburg, VA 20175

Madam Mayor and Members of Leesburg Town Council,

The Leesburg Economic Development Commission (EDC) is charged with promoting economic development in the Town and fostering ideas and policies that make Leesburg competitive for business investment to create new jobs and increases commercial tax revenue.

The EDC is keenly aware of the need for balance between the businesses having entertainment and live music and the rights of the residents to enjoy peace and quiet. The current ordinance is subjective and places our law enforcement officers in the difficult position of subjectively deciding whether music at a business is too loud or not, without any quantifiable measurement of the noise in question.

We believe a new ordinance that sets pre-determined, decibel based benchmarks at specific distances, informs businesses and residents what the threshold is, and offers law enforcement a mechanism to determine quickly and accurately if there is a violation is the best solution for all parties concerned.

Toward that end, the EDC passed a resolution at its May 7, 2014 meeting that asks the Town Council to defer a decision on the proposed noise ordinance until a facilitated forum for residents and businesses is held. This meeting would educate and inform:

1. the Town's businesses, residents, about the current ordinance as well as several proposed changes to the noise ordinance, and,
2. the need for objective noise measurement criteria performed with the use of a decibel meter at a specified distance from the source or from the point of disturbance, and,
3. the potential tax implications of handicapping businesses that produce significant tax revenues.

The Citizen/Business forum will help the residents and business owners comprehensively appreciate each other's perspectives and provide an opportunity for both entities to express their preferred ordinance language so that Council may have a better vision of the community needs as a whole.

Thank you for your time and consideration of this important issue.

Sincerely,

Jim Sisley, Chair
Leesburg Economic Development Commission