



Legislation Details (With Text)

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Title: Review of Current Regulations Pertaining to Noise
PURPOSE: The Board of Aldermen is asked to receive a presentation on current regulations pertaining to noise and provide any necessary feedback or direction on possible changes and / or additional outreach efforts regarding the topic.

Indexes:**Code sections:**

Attachments: 1. Attachment A - Noise Ordinance, 2. Attachment B - Supplementary Use Regulations Excerpt

Date	Ver.	Action By	Action	Result
1/15/2019	1	Board of Aldermen	approved	Pass

TITLE:

Review of Current Regulations Pertaining to Noise

PURPOSE: The Board of Aldermen is asked to receive a presentation on current regulations pertaining to noise and provide any necessary feedback or direction on possible changes and / or additional outreach efforts regarding the topic.

DEPARTMENT: Planning Department and Police Department

CONTACT INFORMATION: Marty Roupe, Development Review Administrator, 919-918-7333 & Walter Horton, Police Chief, 919-918-7408

INFORMATION: During the multiple public hearing meetings in Spring 2015 for the South Green project at 501 South Greensboro Street, potential noise associated with commercial developments near and adjacent to residential areas was discussed extensively. A condition resulted from the discussions and was attached to the Conditional Use Permit for the project. The condition sets parameters and time limits within which tenants must operate their businesses to mitigate potential negative noise impacts associated with the project. The condition reads as follows:

Condition #47:

That the owner and/or property manager will mitigate the nuisance impacts associated with all prospective South Green tenants. Nuisance impacts include but are not limited to, truck deliveries, idling engines, leaf blowing and mowing, and the emptying of trash and recycling containers. Mitigation efforts shall be tailored to fit each particular

business as needed and will include, but not be limited to, controlling the location and hours of delivery. Deliveries shall occur between 7:30 am and 7:30 pm, leaf blowing and mowing shall occur between 9 am and 5 pm. Deliveries occurring outside of these hours shall load and unload internal to the site. Refuse disposal outside of enclosed buildings shall occur between 7:30 am and 10:00 pm, and not after 9:00 pm whenever possible. Furthermore, the property owner is required to present a written report to the Town every six months for the first two years of operation and annually for the following eight years thereafter. Furthermore, annually for ten years, the owner will poll neighbors within 1000' of the property to receive their comments regarding the development whereupon the applicant will provide a written report of the results to the Town. The applicant shall add restrictive covenants that reflect this condition.

At the end of the hearing, the Board asked staff to bring an agenda item back in the future for further discussion about how the Town regulates noise. Planning and Police staff have been checking in periodically regarding this matter since then in advance of bringing this topic back to the Board for further discussion.

Following is a description of existing Town regulations pertaining to noise, followed by an outline of possible changes and / or next steps:

Current regulations:

Noise ordinance:

The existing Town of Carrboro Noise Ordinance is attached for your consideration (Attachment A). While it is possible that the Planning Department may be involved in complaints related to the noise ordinance regarding construction projects, the primary contact and party charged with administering the ordinance is the Police Department. Chief Horton reports that the existing ordinance generally seems to work well and that almost all parties about which the department receives a complaint react quickly and positively to rectify the situation causing the complaint. Two matters are worth noting for possible further discussion:

- 1) It is worth noting that the existing ordinance, Section 5-11 (2), does allow for a reasonable amount of noise associated with a lawful commercial business that conducts business outside of a building and / or to have amplified music. In other words, no specific measurable amount of noise is considered to be a maximum permissible amount. Again though, Chief Horton reports that his department has received relatively few complaints about noise related to existing businesses with outdoor spaces and / or live music. An exception to that statement involved a business at 901 West Main Street, known as Johnny's, for which a zoning related arrangement was reached. This matter is discussed further below under Land Use Ordinance regulations.
- 2) Also worth noting is that the existing ordinance, Section 5-12 (4), only limits some types

of noise, specifically construction type equipment, when the noise is emanating from a source within 300 feet of a residentially occupied structure not in possession of the party responsible for the noise at issue. Chief Horton does not report any significant issues of late related to construction noise in general, but it may be worth considering whether the Board would want to extend the 300 foot standard to a greater distance.

Periodic calls have been made to the Police Department regarding noise occurring primarily at two businesses, Monterrey Mexican Restaurant in Carrboro Plaza at Cat's Cradle downtown. In these cases, officers providing security advise management of the complaint and the volume of the music is lowered and / or open doors are closed as is the case sometimes when complaints are received. The Police Department has run a report for 2017-2018 regarding noise related complaints and found the following:

Total Noise Complaints 2017-2018	537
Total Business	50
Salon Monterey	14
Cat's Cradle	22
Other	14

Land Use Ordinance:

The LUO contains additional noise related provisions in LUO Section 15-163, which are attached for consideration (Attachment B). The provisions included focus on four types of land uses:

- Use 4.000, Manufacturing, Processing, Creating, Repairing, Renovating, Painting, Cleaning, Assembling of Goods, Merchandise, and Equipment
- Use 9.400, Automobile repair shop or body shop
- Use 2.150, Retail Sales with Subordinate Manufacturing and Processing

A table in the ordinance then establishes maximum permissible decibel levels based on time of day and zoning designations of adjacent properties. An additional subsection also regulates the operation of dry cleaning machinery in B-3 zoning districts specifically.

A number of auto repair shop type businesses do operate in town and do have to comply with the noted regulations. No complaints have been received in relation to these businesses in recent memory.

The LUO also contains provisions requiring that a Construction Management Plan be prepared for developments of considerable size that may impact adjacent properties during construction in multiple ways, including noise related impacts. In short, the provisions require that the

applicant prepare, and the town approve, a Construction Management Plan before construction may begin.

Two other examples of how noise has been regulated through the development process come to mind. One is an agreement by condition on a CUP for Looking Glass Café, limiting outdoor amplified music to occur only up to six times annually. Another involves multiple conditions included in the Conditional Rezoning for Lloyd Farm, which read as follows:

Condition 10. Deliveries to retail tenants shall be restricted to the hours of 6 am to 10 pm on weekdays and 7 am to 10 pm on weekends.

Condition 11. Trash/recycling collections shall be limited to the hours of 7:30 am and 10:00 pm, and not after 9:00 pm whenever possible

Condition 12. Landscaping maintenance shall be limited to the hours of 8 am to 6 pm or sunset, whichever is earlier, Monday through Saturday and 12 pm to 6 pm or sunset, whichever is earlier, on Sundays.

Options for possible changes:

Staff requests that the Board discuss this topic and provide guidance for potential changes to the noise related provisions in the Town Code and / or LUO. Staff can further explore codifying provisions similar to what was included in the South Green CUP, as well as explore possible innovative regulations that may exist elsewhere. Given that relatively few complaints about noise, related specifically to existing commercial businesses, have been received historically, staff felt it would be appropriate to bring the matter before the Board for discussion before investing much additional time into the matter.

Staff also notes that a considerable amount of outreach should be done to the business community regarding possible future discussions and / or public hearings regarding changes that may affect their ability to conduct business in ways that involve noise leaving their sites. This could be an appropriate next step should the Board wish to move forward. The Board may also find it appropriate to refer this topic to the Carrboro Business Alliance for consideration as well.

Meanwhile, it remains possible for the Board of Aldermen, for Conditional Use Permits, and the Board of Adjustment, for Special Use Permits, to regulate noise associated issues through negotiating conditions to be placed on individual land use permits catered to the specific details of what is proposed on a case by case basis.

FISCAL & STAFF IMPACT: No fiscal impact associated with receiving this report.

RECOMMENDATION: Town staff requests that the Board adopt the attached resolution receiving the presentation and provide any necessary direction for additional steps.