

Asheville City Council
Public Safety Committee

3:30 p.m. September 24, 2012
4th Floor Training Room, Municipal Building

AGENDA

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| 1. Approval of August 27, 2012 Meeting Minutes | 3:30 |
| 2. Staff Presentations (No Action Necessary) | |
| A.) Fire Department Staffing Overview | 3:35 |
| Scott Burnette, Chief, Asheville Fire Department | |
| B.) Police Department Staffing Overview | |
| William Anderson, Chief, Asheville Police Department | |
| 3. Unfinished Business | |
| A.) Noise Ordinance Review | 3:50 |
| Dawa Hitch, Public Information Officer | |
| 4. New Business (Action Necessary) | |
| A.) Pedicab Franchise Agreement- | 4:45 |
| Ken Putnam, Director, Transportation Department | |
| 5. Public Comment (5 citizens, 3 minutes each) | 4:55 |
| 6. Adjourn | 5:00 |

Upcoming Agenda Items for the Public Safety Committee to Review:

1. Police Department Firing Range Update (October 2012)
Civil Liberties Resolution-- TBD
Leads Online Ordinance-- TBD
Police Department Bouncer Training--TBD

STAFF REPORT

To: Public Safety Committee Date: September 24, 2012
Via: Jeff Richardson, Assistant City Manager
From: Dawa Hitch, Public Information Officer
Subject: Proposed Noise Ordinance Revisions Community Input Update

Summary Statement

This report summarizes community input gathered on revisions to the noise ordinance proposed by staff at the June 25, 2012 Public Safety Committee meeting. Operational opportunities based on themes identified through the input process are also outlined, including action steps staff can take to improve understanding of the ordinance and how it is enforced.

Background

On June 25, 2012, staff presented proposed revisions to the noise ordinance aimed at addressing recently raised community concerns about noise disturbances and the complaint/appeals processes while addressing the direction given by the committee at the March 26, 2012 committee meeting to:

- Keep the reasonable person standard
- Explore the use of zones with respect to reasonable noise levels
- Define day and night
- Dismiss citations/appeals if complainants/appellants don't attend the noise ordinance hearing

The proposed revisions include new definitions for daytime hours, nighttime hours and residential areas which would be used as factors when determining if a noise or sound constitutes a disturbance.

The current ordinance enumerates activities that are "recognized as tending to produce unreasonably loud and raucous noises and as tending to constitute noise disturbances when conducted or permitted in an unreasonable manner." Proposed revisions add yelling, shouting, parties and the sounding of a security alarm for more than 20 minutes after the owner or responsible party has been notified by law enforcement personnel.

At the June 25, 2012 meeting, committee members' supported the launch of a campaign to gather input on the proposed revisions. A 5-week campaign was launched on August 6, 2012. Since that time, a *Project Page* outlining the process and providing easy access to applicable documents has been available on the city's website, an online survey was conducted, community meetings were held, and comments were taken and/or gathered by phone, email, mail, and social media.

Input Summary

The online survey tool was the primary means for gathering input. A total of 1045 individuals participated in the survey with an average response rate of 950 per question (excluding the last question which was an open ended opportunity to provide additional comment). Survey results indicated the area codes with the most participation were 28806 (285 responses) 28801 (275 responses) and 28804 (134 responses). Approximately 74% of respondents have never reported a complaint and 94% had never had a complaint filed against them.

Responses suggest most people are:

- Moderately familiar with the City of Asheville noise ordinance
- Believe it is at least moderately important to revise the ordinance
- At least moderately in favor of defining day as 7 a.m. to 11 p.m. with 309 respondents offering alternative hours for the definition
- Strongly favor including “yelling and shouting” in the list of activities that could cause a “noise disturbance”
- At least moderately favor including “parties” in the list of activities that could cause a noise disturbance
- Strongly favor including “the sounding of any security alarm for more than 20 minutes following notification by law enforcement personnel” in the list of activities that could cause a “noise disturbance”
- At least moderately willing to work toward a solution with a trained mediator before filing a formal complaint
- Comfortable with the current fines for violations

Because it was a proposed wording revision based on a proposed addition of a definition for daytime, the proposed revision to change the hours of operation for commercial refuse collection from “daylight” to “daytime” hours was not included in the survey. Benchmarking of similar sized cities with relevant noise ordinances pertaining to sanitation services (4), revealed 3 cities identify hours.

Fayetteville, NC – no pickup between 7 p.m. and 6 a.m.

Chapel Hill, NC – exempt from noise ordinance between 5:30 a.m. – 11 p.m. with permit issued by manager.

Wilmington, NC – decibel-based; Residential 55 dB(A) between 11 p.m. and 7 a.m. during the week and midnight – 7 a.m. on weekends; Downtown 65 dB(A) between 11 p.m. and 7 a.m.

Additional comments were also gathered on the survey, at the community meeting, through phone calls, email, mail, and social media. Only one organized group requested a staff presentation and their input is included in the table. Areas receiving multiple comments are captured below with operational opportunities noted where applicable. All comments are available on Project Page for Noise Ordinance Revision – Input Process.

Many comments relate to items covered in the current ordinance. In those cases the applicable ordinance is noted. It is also noted when items are being explored by other Council appointed committees. Staff is prepared to launch a full campaign aimed at

understanding the ordinance, how it is enforced, and how the formal complaint/appeals process works.

Subject	Mentions	Staff Comments
Muffler related noise	96	Currently addressed in Sec. 10-84(6) Education opportunity.
Dogs	50	Currently addressed in Sec. 10-84(3) Education opportunity.
Bullhorns/Megaphones	30	Currently addressed in Sec. 10-84(15) Over half of the mentions related to Bele Chere. There is currently an exemption surrounding noise emanating from city-sponsored events. Sec. 10-85(3) Education opportunity
Loud music in cars	17	Currently addressed in Sec. 10-84(1) Education opportunity
Decibels	16	6 people felt they should be used for specific disturbances such as mufflers. 4 specifically mentioned they do not support the use of decibels.
Outside Speakers	7	Currently covered in UDO. This item is on the agenda for the October Downtown Commission meeting.

In addition to many comments supporting the current ordinance, there were a number of responses noting the ordinance itself is adequate but that there should be more consistent enforcement. The following items reflect suggestions related to strengthening enforcement.

- Require a permit for large parties
- Allow officers to use residents' documentation of noise problem in considering whether or not to cite in a situation where there is an ongoing problem
- Track repeat offenders and make fines higher for them and limit the number of citations they can get before more serious action is taken
- Involve landlords when rental properties are where the problems occur.
- Make business fines higher

- Periodically review the ordinance with officers to help with consistency in enforcing reasonableness. Make sure they are aware of other ordinances about noise – like construction hours.

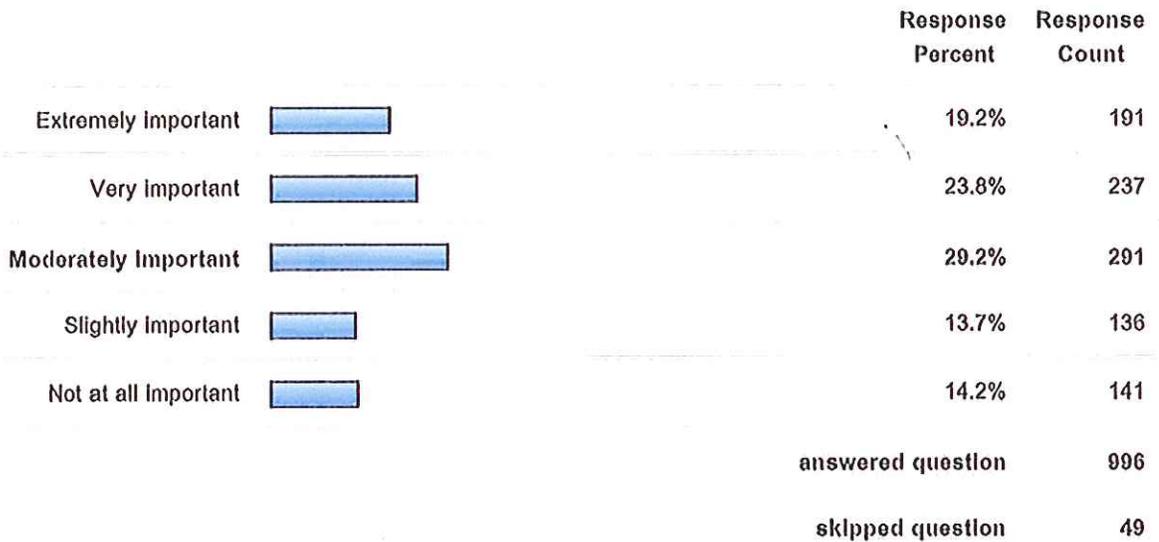
Some of the recommendations are currently addressed, such as the opportunity for residents' documentation of a noise problem to be considered. The forum for that type of information would be through the formal complaint process, a process designed with community empowerment in mind. Others offer opportunity for operational improvements.

Finally, there were a number of comments stating the process should encourage noise makers and those they impact to attempt to work out their differences before involving law enforcement. Some felt mediation would be a good alternative. Others stated that at times, it was a problem to expect neighbors to approach noise makers directly. Examples: ongoing problems, disturbances involving intoxicated people.

1. How familiar are you with the City of Asheville noise ordinance?



2. How Important Is It that the noise ordinance be revised?



3. Do you favor, oppose, or neither favor nor oppose defining day as 7 a.m. to 11 p.m. and night as 11 p.m. to 7 a.m.?

		Response Percent	Response Count
Favor a great deal		26.5%	243
Favor a moderate amount		24.5%	225
Favor a little		11.7%	107
Neither favor nor oppose		11.9%	109
Oppose a little		6.2%	57
Oppose a moderate amount		8.6%	79
Oppose a great deal		10.6%	97
If you believe other hours should be used to determine day and night, what are they?			309
			answered question 917
			skipped question 128

4. Do you favor, oppose, or neither favor nor oppose revising the noise ordinance to include "yelling and shouting" in the list of activities that could cause a "noise disturbance."

		Response Percent	Response Count
Favor a great deal		42.5%	410
Favor a moderate amount		20.9%	202
Favor a little		10.4%	100
Neither favor nor oppose		5.9%	57
Oppose a little		6.1%	59
Oppose a moderate amount		5.5%	53
Oppose a great deal		8.7%	84
answered question			965
skipped question			80

5. Do you favor, oppose, or neither favor nor oppose revising the noise ordinance to include "parties" in the list of activities that could cause a "noise disturbance?"

		Response Percent	Response Count
Favor a great deal		34.9%	336
Favor a moderate amount		19.9%	192
Favor a little		12.3%	119
Neither favor nor oppose		6.0%	58
Oppose a little		8.2%	79
Oppose a moderate amount		7.5%	72
Oppose a great deal		11.2%	108
answered question			964
skipped question			81

6. Do you favor, oppose, or neither favor nor oppose revising the noise ordinance to include "the sounding of any security alarm for more than 20 minutes following notification by law enforcement personnel" in the list of activities that could cause a "noise disturbance?"

		Response Percent	Response Count
Favor a great deal		45.9%	442
Favor a moderate amount		22.2%	214
Favor a little		12.4%	119
Neither favor nor oppose		10.4%	100
Oppose a little		3.3%	32
Oppose a moderate amount		2.1%	20
Oppose a great deal		3.7%	36
		answered question	963
		skipped question	82

7. If you experienced an on-going noise disturbance, how willing would you be to work toward a solution with a trained mediator before filing a formal complaint?

		Response Percent	Response Count
Extremely willing		22.1%	209
Very willing		31.6%	299
Moderately willing		24.3%	230
Slightly willing		11.6%	110
Not at all willing		10.5%	99
		answered question	947
		skipped question	98

8. The current fines for noise ordinance violations are: \$50 for the first offense, \$100 for a second offence, \$200 for a third offense and \$300 for subsequent offenses. Do you think these fines are too high, too low, or about right?

	Response Percent	Response Count
Much too high 	5.5%	52
Somewhat too high 	4.8%	45
Slightly too high 	5.9%	56
About right 	55.2%	522
Slightly too low 	10.5%	99
Somewhat too low 	9.7%	92
Much too low 	8.4%	79
	answered question	945
	skipped question	100

9. In the last year, about how many times did you call the police or another city department to report a noise ordinance violation?

	Response Count
	925
answered question	925
skipped question	120

10. In the last year, about how many times did you have a noise complaint filed against you?

	Response Count
	928
answered question	928
skipped question	117

11. What is the best way to share information with you about the city's noise ordinance?

	Response Percent	Response Count
The Asheville Channel 	11.3%	104
Through my neighborhood association 	32.7%	300
City website 	48.0%	440
Facebook/Twitter 	47.9%	439
City Blog/e-News 	16.4%	150
answered question		917
skipped question		128

12. Please share with us your zip code or neighborhood so we can better know where to focus noise ordinance education efforts.

	Response Count
	896
answered question	896
skipped question	149

13. Please share any additional comments you feel are important to consider regarding the noise ordinance.

	Response Count
	490
answered question	490
skipped question	555

STAFF REPORT

To: Public Safety Committee Date: September 24, 2012
Via: Gary Jackson, City Manager
From: Ken Putnam, PE, Transportation Department Director
Subject: Pedal Bicycle Taxi Franchise Agreement

Summary Statement: The consideration of an ordinance granting a franchise agreement for the operation of a pedal bicycle taxi service within the City of Asheville.

Review: City staff has been working with a citizen that is interested in starting a pedal bicycle taxi service within the City of Asheville under the business name of Asheville Bike Taxi, LLC. The service would be allowed in the Central Business District, the River Arts District, and the Historic Montford District. In addition, it would be allowed to use SR 3548 (Clingman Avenue) from Clingman Avenue Extension to Hilliard Avenue in order to gain access to the River Arts District (see attached map section). The North Carolina Department of Transportation has confirmed that the subject service can use state-maintained streets except for fully-controlled access streets like the interstate system.

The service is prohibited from operating on public streets that have a speed limit of 35 mph or higher. The one exception is the section of Clingman Avenue that provides access to the River Arts District. This section of street has a bicycle climbing lane and the pedal bicycle taxis are required to use it.

The hours of operation are limited to between 9:00 am and 3:00 am Monday through Friday and between 7:00 am and 3:00 am Saturday and Sunday. The ordinance would limit the total number of vehicles to five. During the review process, another citizen contacted the City about a pedal bicycle taxi service. Staff would like guidance from the Public Safety Committee regarding how many franchise agreements should be in effect at the same time.

City Council approved a similar franchise agreement during March 2008; however, the business model was not successful.

This action complies with the City Council's Strategic Operating Plan in the Job Growth and Community Development Area by supporting diversified job growth and business development.

Fiscal Impact: There is no known fiscal impact for the subject franchise agreement.

Recommendation: Staff recommends that the Public Safety Committee endorse and move forward to City Council for consideration an ordinance granting a franchise agreement to Asheville Bike Taxi, LLC for the operation of a pedal bicycle taxi service within the City of Asheville.

Staff would also like guidance from the Public Safety Committee regarding how many franchise agreements should be in effect at the same time.

Attachment
(1) Map Section

