

Community Meeting – Noise Ordinance

August 17, 2021

Call to Order

Deputy Director Amin Tohmaz opened the meeting by explaining the noise ordinance and the CCR (Council Consideration Request). District 1 and District 10 councilmembers requested the CCR together on March 15, 2021. Their request was for Development Services to create a task force to review chapter 21 -the noise ordinance. They specifically requested 15 members on the task force. They also identified specific districts, and specific businesses to review. The main reason for the task force is to review the noise ordinance pertaining to commercial businesses, clubs, bars, restaurants, entertainment facilities adjacent to residential properties. The CCR talks about the noise levels, times of when noise will be restricted, low frequency noise/vibrations, and enforcement. The first thing to discuss is, how is it working today. Chapter 21, the noise ordinance, is the Police chapter. They are the ones that enforce that chapter. We are working with them to assist in working out issued. The response to calls falls on the S.A.F.F.E unit and Vice. Most of the calls come in late at night and early in the mornings. The number of calls the police received from January 2020 to June of 2021 is 53,000 plus calls, with about 70 citations issued. Most of the calls are for single family residences (house parties) and multi-family units (apartment complexes), and a few calls for restaurants, bars, etc. The main goal is compliance. That is why when police respond to a call they talk to violator first. Normally, they will voluntarily comply with police request to lower volume. The police department has priorities and noise is not high on that list. They do respond to the calls, but sometimes when they get there, the noise is over.

There are fifteen members on the task force. Three of the task force members are neighborhood representatives from three different neighborhoods (Oak Pak, King William and Tobin Hill), five members are from council districts 1, 2, 3, 9 and 10, there is one representative from North St. Mary's business association, one restaurant association representative, two food and beverage association representatives, one police department representative and one from code enforcement/DSD, and one representative from City Attorney's office.

When a CCR is created it is reviewed by Development Services and a presentation is given to City Council. The governance committee will provide their feedback and instruct to move forward with CCR. They would like it to be merged with another CCR from Councilman Courage of District 9. That CCR was specific to construction noise. The current CCR is geared toward businesses adjacent to residences and specifically businesses that are entertainment facilities (restaurants, clubs, bars, etc.). The task force has met four times, and nothing has been finalized yet. They are focusing on the noise levels, hours, low frequency noise, vibrations and the national standards.

Chapter 21 and the task force discussions are on the Development Services website for review. As it is now, the noise level for residential is 63 decibels, 70 decibels for business zoned property 72 decibels for industrial zoned property and 85 decibels for entertainment zoned property. The hours are divided into two times; daytime and nighttime. Daytime is from 6:00 am to 10:00 pm Sunday thru Thursday and 6:00

am to 11:00pm Friday and Saturday. The Nighttime hours are 10:00 pm to 6:00 am Sunday thru Thursday and 11:00 pm to 6:00 am Friday and Saturday. That is current what is in the code. The discussion with the task force is to review this to see if they should propose changes to the levels of sound (decibels), or hours.

The second theme is enforcement. We need to identify the entity responsible for the enforcement and put policies and procedures together to ensure the guidelines for enforcement are followed. Again, the goal is compliance not issuing citations.

The third topic is zoning. There was a misunderstanding amongst the Police Department, Development Services and other people concerning entertainment zones. The assumption was entertainment districts are exempt for the ordinance, which is not true. There are just a few Entertainment Districts in the City, Morgen's Wonderland, Fiesta Texas, Sea World and the Hyatt Resort. They are not exempt from the ordinance as well as the Downtown area which is an Arts and Entertainment District. The Entertainment District is at a higher decibel allowance (85 decibels). The Arts and Entertainment District is at a business level of 70 decibels.

Today, the task force is looking for input from the community so that the ordinance can be finalized and presented to council by October of this year. Also, early in October, Development Services will start a pilot program with Code Enforcement Officers to respond noise calls. This will be done for 90 days to see the outcome, to see whether we are getting better compliance nor not.

Mr. Tohmaz shared the DSD website information with the online viewers and in-person community members present. There will be another community meeting on August 31, 2021 and the SA SpeakUp survey will be out there.

Questions

Will this ordinance address the dog barking nuisance? – No, the CCR is concerning noise from businesses

How does city track voluntary compliance? – No information at this time, it is tracked by SAPD

How much is the fine? The fine is Class C, which can be from \$100 to \$1000

Where is the noise measured from? – Noise is measured from the noise maker's property edge

Why not get stats from pilot program before changing ordinance? That is a consideration

Tohmaz – the pilot program will consist of five to six code officers that will monitor noise on Thursday, Friday and Saturday night. They will respond within 20 to 30 minutes.

Savita Rai – in response to the question, this is was recently dropped on the task force (the pilot program) and so there will be discussions on the timeline, if it needs to be changed in regard to changing the ordinance.

What is the difference between the Arts & Entertainment zone and the Entertainment District?

Michael Uresti – the Arts & Entertainment zone is mostly the downtown area which allows decibel levels of 70 because they are in business zone. The Entertainment Districts which were shown to be few, i.e. Fiesta Texas and Sea World are allowed decibels levels of 85.

Toby Knight - wants to address chapter 21-52 Noise, Nuisance, Enumeration – paragraph (a) The following acts, among others not hereinafter enumerated, are declared to be a “noise nuisances,” and are unlawful and in violation... (1) the playing or permitting or causing the playing of any radio, television, phonograph, drum, juke box, nickelodeon, musical instrument, should amplifier or similar device which produces, reproduces, or amplifies sound. Is president of the local community bands association with over 500 members. He finds it offensive that a musical instrument would be considered a noise maker. He would ask that the task force decouple musical instruments from the code so that it would not be enumerated as a noise maker. Feels like this policy is almost hostile towards musicians in a way. With the Covid-19 crisis, a lot of the community bands had all of their venues dry up. The only option is to play outdoors. Music is the vibrant core of the community.

Rose Kanusky – Section 21-52 cannot be read in isolation without looking at the definitions. A noise nuisance is anything that causes injury, discomfort, or distress to persons of reasonable sensibilities. So, if decibels are the way to measure then that is the way to measure. If something qualifies as noise nuisance of Section 21-52 and according to the definition, it should not be occurring. Would also emphasize that noise meters must be calibrated and carried by the police.

Michael Sidoric – The city needs to consider the entire noise envelope not just source. The City of San Antonio has an opportunity to create a state-of-the-art ordinance to consider the entire noise envelope, which will include freight trains, low rider vehicles. There is nothing this ordinance that prevents those vehicles from being on city streets at three o'clock in the morning with amped up amplifiers. As far as musical instruments; would hate to see San Antonio legislate itself out of tuba Christmas. The changes that were made for the River Walk was a good concept. It is important to have DSD enforce the ordinance because it is not a police matter.

Tom Huckaby – professional musician for 28 years. The industry that will be most affected by this ordinance is the music industry, specifically the professional independent musicians. Would like to know why there is no musician representative on the task force. This is an industry that has been decimated by the pandemic. Would like the task force to consider the impact that lowering decibels will have on the future of musicians in this city.

Gary Cook – measuring with decibels is tough. What the city needs is something objective. 70 decibels is the sound of a dishwasher. Must be realistic with what is being looked at.

Amin Tohmaz - That is one of the reasons the task force is reviewing the national standards.

Chad Carey - along with his partners, owns music venues and clubs along the St. Mary's strip. They measure their decibels levels all the time and are frustrated trying to be in compliance with the laws. Would like task force to take into consideration that when a decibel reading is taken by the police, they will take it at any point near their property. Within 100 feet of their club, there are five other bars or clubs, vehicles going by, pedestrians etc. If enforcement is going to take place, that needs to be taken into account. Also, just because someone makes a call, does not mean they are not in compliance.

Jeff McPherson – Has a finance question. 53,000 calls probably cost tax payers a quarter of a million dollars and only 70 citations which would be .03 percent, making the City about \$150. Is that reasonable. Where is the line drawn if the business can be at 70 decibels and it goes over into the neighboring residential house.

Amin Tohmaz - Noise travels but the level of noise drops every ten feet or so. The decibels are measured at the property line. So, on commercial property, they can be at 70 decibels on that property all the way to the property line.

Michael Sidoric – City Manager Erick Walsh proposed that DSD be the vehicle for enforcing and ensuring that the noise ordinance is in compliance. What he is hearing is that there may be a mitigation issue. Would like DSD to consider mitigating so that club owners can learn to be better neighbors.

Rick Thomas – Retired police officer wants to know if there was a break down on the type of calls that come in. Is someone researching on how many of the calls have complainants, what type of noise or disturbance is it. There needs to be a good, accurate database.

Amin Tohmaz – SAPD is still going through their records to give the task force more information.

Tom Roth - what can be done to protect businesses and homeowners from the vibrations from noise. He has called police and they do not qualify vibrations as a nuisance source.

Savita Rai – Would like to clear up a few points; there is no permitting system for the noise ordinance. The working documents on the website are just proposals put out by task force members, they have not been vetted by Legal. They are just ideas like what is being discussed tonight. Someone mentioned there being no provisions in the code for vibrations either airborne or ground; would like to direct them to Section 21-53 which addresses vibrations. Lastly, 21-52 is the general provision that the city prosecutes most of their cases. It has to get to the point that is annoys, cause distress, injure the quiet enjoyment of another person. This has to be proven in a court of law. That is the definition that was established by the Supreme Court. Section 21-52 (a) does not require decibel readings. It is a general noise nuisance provision.

John Banks – is concerned with other noise from vehicles that may interfere with the reading of musicians.

System was unable to take questions and hearing online listeners speak

Meeting adjourned at 8:10 pm