

City of Petersburg
Planning Commission Meeting
March 3, 2022

Minutes

The City of Petersburg Planning Commission meeting held on Thursday, March 3, 2022, virtually was called to order by the Chair, Mrs. Tammy Alexander at 6:02 p.m. A roll call was completed by Ms. Michelle Murrills.

Members Present: Ms. Tammy Alexander, Chair
Mr. Fenton Bland, Vice Chair
Ms. Marie Vargo
Mr. Thomas Hairston
Dr. James Norman
Dr. William Irvin

Members Absent: Ms. Candy Taylor
Mr. Michael Edwards

A Quorum was established by the Chair.

Others Present: Mr. Reginald Tabor, Ms. Michelle Murrills, and Ms. Heather Barrar.

Adoption of the Agenda:

Chair Alexander called for any changes...Mr. Tabor asked that 6A and 6B get swapped. Chair Alexander agreed. Commissioner Norman moved to approve the updates agenda and Commissioner Vargo seconded it. The motion passed unanimously.

Minutes:

Chair Alexander found a typo that was immediately fixed. Then Commissioner Norman moved for the adoption of the Minutes from the February 3, 2022, meeting; Commissioner Harriston seconded the motion. The motion passed unanimously.

Public Information Period:

Chair Alexander opened the Public Information Period to anyone who wished to speak on an item not on the agenda. No one chose to speak and so the Chair closed the public information period.

Public Hearings:

Chair Alexander read the notice of a public hearing as follows:

6a. City Code Amendment 2021-01: a resolution recommending approval of amendments to the City of Petersburg Code of Ordinances, Chapter 50. Environment Article II. Noise to the City Council (continued from the February 3rd, 2022, Planning Commission meeting.)

Director Tabor made the presentation. He said that this was a request from City Council to review the City Code related to noise and to provide a recommendation. Previously the Commission held a public hearing at the Train Station and considered then changing the code to include outdoor decibel levels for business uses. The Council asked the Commission to revisit the code related to noise. At the last Commission meeting they established a committee to review the ordinance and come back to the full Commission with recommendations. The committee consists of Chair Alexander, Commissioner Vargo and Commissioner Hairston, also the City Manager, the Chief of Police, the Zoning Administrator, and Mr. Tabor.

Mr. Tabor wanted to make sure that everyone on the Commission knew what the code was. Within the code there is a declaration of policy that states, “it is hereby declared to be the public policy of the City to protect the citizens excessive noise which is detrimental to life, health, and enjoyment of property. In order to promote the public health safety welfare and peace and quiet of its inhabitants of the city the standards of this article related to noise are hereby adopted. Then in the section of definitions, noise is defined as “any steady-rate or impulsive sound occurring on either a continuous or intermittent basis that disturbs person or that causes or lends to cause an adverse effect on humans”. Also, in definitions there is a definition for when which is defined as “...between the hours of 7 a.m. and 10:00 p.m. weekdays and from 9 a.m. to 10:00 p.m. on Saturdays, Sundays and legal holidays observed by city government unless otherwise specified. Nighttime means those times excluded from the definition of daytime.” Also in the code is the definition of how measured “...such levels shall be measured at the property

boundary of the sound source, at any point on public property, or at any point within any other property affected by the noise. When noise emanates from public property including street right-of-way, such levels shall be measured at any point on public property or at any point within any other property affected by noise.” Also, if the “noise (is) measured in more than one zoning district classification, the limits of the most restrictive classification shall apply.”

Mr. Tabor also said that How (Enforcement) would start with a written or verbal warning from the Chief of Police or his designee. Then if it persists for longer than five minutes after the warning then the Police Chief, or his designee will then charge person responsible for the event causing the noise disturbance. No person shall be charged with a violation of the provisions of this section unless a violation is committed in the presence of the Police Chief or his designee. The person operating or controlling a noise source shall be guilty of any violation caused by that source. If that cannot be determine, any owner, tenant or resident physically present on the property where the violation is occurring is rebuttably presumed to (be) responsible for the noise violation. Any person who violates any provision of this article shall be deemed to be guilty of a class 4 misdemeanor for a first offense and a class 3 misdemeanor for each subsequent offense.

FYI sounds with decibels more than 85 are harmful. Noises that are above 150 can rupture ear drums. The average human pain threshold is met at 110. Around 50 is quiet suburb. Garbage disposal is right at 80 decibels.

During the February 3 meeting, the Planning Commission appointed the committee and the committee met on February 28th. The committee considered the noise ordinance of Staunton, Virginia, which has three clauses.

1. The Committee considered the Noise Ordinance in Staunton, Virginia.
<https://www.stauntondowntown.org/noise-ordinance-q-a/>

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Staunton, Virginia, that Section 8.25.190 Entertainment area exception, of Article I, In General, of Chapter 8.25, Noise, of Title 8, Health and Safety, of the Staunton Code be 8.25.190 Entertainment area exception.

(1) The foregoing sections notwithstanding, musical entertainment may be provided by businesses situated in the central business district as described herein. In such cases, the level of noise created by or from the musical entertainment shall not exceed 80 dBA as measured at any point 50 feet perpendicular to the apparent property boundary of the property from which the noise emanates; and, notwithstanding the foregoing, during the period beginning 11:30 p.m. local time and ending 9:00 a.m. local time, such noise shall not occur or extend beyond the interior of such businesses. “Musical entertainment” as used herein shall mean music made by what are commonly known as musical instruments, recordings of music, choral or vocal singings sponsored or provided by the business wherefrom the noise emanates.

(2) The central business district as used herein is described as: Beginning at the intersection of Coalter Street and Frederick Street, thence with Frederick Street, west, to its intersection with Lewis Street, thence with Lewis Street, south, crossing Middlebrook Avenue to the C&O Railroad right-of-way, thence

with the C&O right-of-way, east, to Coalter Street, thence with Coalter Street, north, to its intersection with Frederick Street, the point of beginning.

(3) The musical entertainment, subject hereof, is exempt from the provisions of SCC 8.25.080, 8.25.100, 8.25.110, and 8.25.160, except as provided in subsection (l) of this section.

In all other respects, the provisions of Section 8.25.190, Entertainment area exception, of Article I, In General, of Chapter 8.25, Noise, of the Staunton City Code remain the same and are hereby restated, confirmed and reordained.

Introduced: March 22, 2012 Adopted: March 22, 2012 Effective Date: March 22, 2012

Staunton Ordinance Summary

- It establishes an Entertainment Area that includes exceptions to the permitted noise decibel levels.
- It establishes 80 dBA as measured at any point 50 feet perpendicular to the apparent property boundary as a limit.
- It prohibits noise beyond the interior of businesses in the entertainment area during the period beginning 11:30 p.m. local time and ending 9:00 a.m.
- It defines the boundaries of the entertainment area.
- It defines musical entertainment.

Recommendations

During the Committee Meeting, the following recommendations were identified:

1. Police Department Officers should use calibrated Sound Meters to determine sound levels prior to issuing code violation notices related to noise.
2. Noise levels in the City Code should be enforced.
3. Definition of an Entertainment District with appropriate sound levels should be part of the Downtown Master Plan process.

Other Considerations

1. Noise should be measured 50 Feet (30 or 35 would be across the street) from the property line of the Noise Source.
2. A City-wide maximum noise level could be considered such as 75 dBA daytime and 65 dBA night.
3. Amendments to the daytime and nighttime hours could be considered:

- From 7:00 a.m. to 10:00 p.m. daytime (current)
- To 7:00 a.m. to 10:00 p.m. daytime Monday through Friday
- 9:00 a.m. to 11:00 p.m. daytime on Saturday and Sunday
- 9:00 a.m. to 11:00 p.m. daytime Friday through Sunday
- 9:00 a.m. to 11:00 p.m. daytime Thursday through Sunday
- 4. Sec. 50-33. - Specific prohibitions.

It shall be unlawful to produce noise that exceeds the maximum permissible sound levels defined in Sec. 50-36. - Maximum permissible sound levels generally. Provided however, that the prohibitions of this section shall not apply to emergency work to provide public facilities or utilities, or to remove debris, when necessary to protect the public health or safety.

Mr. Tabor said that unless otherwise noted, all sections of the noise ordinance that were not specifically changed would remain the same.

Sec. 50-33. - Specific prohibitions.

It shall be unlawful for any person:

- (a) To use, operate or play any radio, phonograph, television, record, compact disc or tape player, musical instrument, loudspeaker, sound amplifier or other machine or device capable of producing or reproducing sound in such a manner or with such volume or duration that it is heard between 11:00 p.m. and 7:00 a.m.:
 - (1) Inside the confines of the residential dwelling, house or multi-family dwelling of another person; or
 - (2) at 50 or more feet from the device, except for devices permitted to be used at public parks or recreation fields, sporting events, school-sponsored activities on school grounds, or duly authorized parades, public functions or commemorative events.
- (b) To allow noise between the hours of 10:00 p.m. and 7:00 a.m. that is heard either inside the confines of the residential dwelling, house or multi-family dwelling of another person or at 50 or more feet when the noise is made by one or more persons.
- (c) To operate, install, have, or permit on the outside of any store, shop, business establishment, warehouse or commercial building, any loudspeaker or other sound-producing or reproducing device capable of emitting music, noise, sounds, tapes or voice in such manner that it is heard on any public sidewalk or street unless it is used only intermittently for announcing or paging an individual or unless it signals the ringing of a telephone, danger from smoke, a fire or a burglary or the beginning or stopping of work or school, or unless it is operated in accordance with conditions of zoning.
- (d) Using any instrument, whistle, drum or bell or making any other unnecessary noise for the purpose of advertising, announcing, or otherwise calling attention to any goods, wares, merchandise, or to any show, entertainment, or event. The provisions of this section shall not be construed to prohibit the selling by verbally announcing the sale of merchandise, food, or beverage at licensed sporting events, parades, fairs, circuses or other similarly licensed public entertainment events.
- (e) To play or permit the playing of any radio, stereo, tape player, compact disc player, loud speaker or other electronic device or mechanical equipment used for the amplification of sound, which is located within a motor vehicle, and which is heard from outside the motor vehicle at a distance of 50 feet or more from the vehicle. This provision shall not apply to sirens, loud speakers and emergency communications radios in public safety vehicles, nor shall it apply to motor vehicle alarms or other security devices.

- (f) To create noise heard in residential areas in connection with the loading or unloading of refuse, waste or recycling collection vehicles between the hours of 10:00 p.m. and 7:00 a.m., except those areas zoned for urban mixed use, when the sound or noise is produced in connection with the loading or unloading of refuse, waste or recycling collection vehicles.
- (g) To create a noise disturbance across a residential property line between 10:00 p.m. and 7:00 a.m. in connection with lawn care, leaf removal, gardening, tree maintenance or removal, other landscaping, lawn or timbering activities; the operation of any mechanically powered saw, drill, grinder, sander or similar device; or the construction, demolition, repair, paving, excavation or alteration of a building or street.
- (h) Operating or causing to be operated between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and between the hours of 10:00 p.m. and 9:00 a.m. on Saturdays, Sundays and legal holidays observed by city government equipment used in the construction, repair, alteration or demolition work on buildings, structures, alleys or appurtenances thereto in the outdoors in any residential district within 100 yards of a lawfully occupied dwelling. This section shall not apply to construction of public projects, the repair or maintenance work performed on such projects or work performed by private or public utility companies for the repair of facilities or restoration of services.

Provided however, that the prohibitions of this section shall not apply to emergency work to provide public facilities or utilities, or to remove debris, when necessary to protect the public health or safety.

Sec. 50-34. - Exemptions.

This provision shall not apply to:

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- (a) Noise generated in connection with the business being performed in an industrial area;
- (b) Locomotives and other railroad equipment, and aircraft;
- (c) Sound emanating from any area permitted by the Virginia Department of Mines, Minerals And energy or any division thereof;
- (d) Police, fire, ambulance or emergency vehicle sirens;
- (e) Sounds created when responding to emergencies, including emergency utility repairs;
- (f) Motor vehicles and trucks traveling on roads;
- (g) Heat pumps and/or air conditioners on residential properties;
- (h) Backup generators running during power outages;
- (i) Public transportation facilities;
- (j) Burglar, fire or other alarms tests between 7:00 a.m. and 9:00 p.m.;

- (k) Band performances or practices, athletic matches or practices and other such activities
On school or recreational grounds between 7:00 a.m. to 11:00 p.m.;
- (l) Religious services, religious events or religious activities, including, but not limited
to music, bells, chimes and organs which are a part of such religious activity between the hours of
7:00 a.m. to 11:00 p.m.;
- (m) Sound amplifying equipment used at public parks or recreation fields provided the operation
of such equipment has been approved by the department of parks and leisure services;
- (n) Activities for which the regulation of noise has been preempted by federal law;
- (o) Parades, fireworks or other special events or activities for which a permit has been
issued by the city, within such hours as may be imposed as a condition for the issuance
of the permit.

Commissioner Hairston said that whatever the number is that is decided on, it should be the same throughout the city. That way then it is not only fair but that everyone can understand what the numbers for their area would be. Chair Alexander agreed because Chief Christian said that his officers do not carry a zoning map with them and do not know the differences. Chair Alexander said that she is for a flat 75/65 spread, but that the industrial zones may need to be a little louder. But she then found where that noise is exempt.

Commissioner Vargo then put forth a motion that the commission should recommend a noise ordinance of nighttime 11 p.m. to 7 a.m. 75 decibels day/ 65 night, with a recommendation of an entertainment district overlay to be considered later. Commissioner Irvin then seconded it. Commissioner Hairston then asked if Commissioner Vargo's motion said that we had to have an entertainment district and how does that work? Commissioner Vargo said that she was trying to get something simple done to make it easy for everyone. With the motion put forth by Commissioner Vargo and seconded by Commissioner Irvin, the role was taken. With 4 ayes and 1 abstention, the motion passed and was sent to City Council.

6b. 22-CPA-01: A resolution recommending approval of amendments to the City's Comprehensive Plan to comply with the Chesapeake Bay Preservation Act to the City Council. (Continued on from the February 3, 2022, Planning Commission meeting.)

Director Tabor gave the presentation for this as well.

There were a couple of words that the state said needed to be changed in order to be in line with what the State and Federal governments wanted in order to be in line with the rest of the state. These were all changes that needed to be made according to DEQ. There was a discussion about whether or not the commission needed more time to go over the different changes. Ms. Heather Barrar then asked if she could get a copy of the document and read through it.

Chair Alexander asked if it was possible to move this to the next meeting even though it had already been pushed back once. Director Tabor said that no it is on the agenda for the next City

Council meeting. The most time that he could give was one more week, otherwise they would have to ask City Council to move it to their April meeting. Director Tabor asked Heather Barrar to read through it all before the next week and then she could make comments at the next City Council meeting. Ms. Barrar did agree to do that and reiterated that she was doing so to make sure that the wording worked with the plans that are already in place.

Commissioner Hairston then made a motion to recommend approval with staff recommendations and with FOLAR's recommendations and to take them to City Council. It was seconded by Commissioner Vargo. It passed unanimously.

7. Old Business:

No old business

8. New business:

No new business

Announcements: there were no announcements.

Adjournment:

Meeting was adjourned at 7:37 p.m. Next meeting is at 6:00 p.m. on April 7, 2022.