

City Council Meeting Date: July 19, 2016

To: Mayor and City Council
City Administrator

From: Monte Nelson, Chief of Police

..Title

Consider Ordinance Regarding Proposed changes to City Code Chapter 50 – Offenses and Miscellaneous Provisions Related to Disorderly Conduct, Loud Parties and Noise.

..Body

Action Requested:

The Northfield City Council is requested to have the First Reading of an Ordinance amending Chapter 50- Offenses and Miscellaneous Provisions related to Disorderly Conduct and Loud Parties/Assemblies, and a proposed new Unlawful Noise section.

Summary Report:

The proposed changes to the City ordinance related to Disorderly Conduct and Loud Parties/Assemblies and a new section of Noise Ordinance were previously presented to Council at the May 3 City Council meeting and the June 14 City Council Work Session. Please see the attachments including the proposed Ordinance in question and the staff reports from the May 3 City Council meeting and June 14 City Council work session for additional information.

Staff recommends approval of the first reading for all of the proposed changes and the new sections to the ordinance. The proposed changes to the Disorderly Conduct and the Loud Parties/Unlawful assemblies sections and the new Noise Ordinance section are recommended for Council approval for several reasons as described in the prior staff reports and summarized below:

- The Disorderly Conduct section includes improved language as detailed in prior staff reports
- The Loud Party/Unlawful Assembly language change is due to a recent court ruling that held the current ordinance language as unconstitutionally vague.
- The new Unlawful Noise section is proposed to address several concerns that have persisted in Northfield over the years, including complaints of noisy vehicles, loud car stereos, engine/jake-braking on trucks, outdoor music performances late at night, and others.

Staff recommends the proposed Noise Ordinance to address noise complaints and issues that have been received for years and have proven difficult, if not impossible to resolve with reasonable, ordinance-supported action. Parts of the new Noise Ordinance relate directly to music/noise generated at bars and restaurants, as well as other private homes or venues. Proposed Section 50-90 (d) (3) addresses the playing of loud, amplified and unamplified music/sounds/noise.

Since the June 14 City Council Work Session, additional language has been added to this section; see the language highlighted in yellow below. This language was added to provide for a later time frame on Friday and Saturday nights, and an exception of the time limitations for indoor music at businesses in the C1 Downtown Commercial District:

(1) (3) *The use, operation, or permitting the playing, use, or operation of any radio receiving set, musical instrument, phonograph, or other machine or device for the amplification, production or reproduction of sound at any time in such manner as to be likely to annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of a reasonable person of ordinary sensibilities who might be in its vicinity, or between the hours of 10:00 P.M. and 7:00 A.M. Sunday through Thursday and 11:30 P.M. and 7:00 A.M. Friday and Saturday, at such a volume so as to be plainly audible at the real property boundary of the building, structure, residence or other area in which the device is located;*

a. *Exception: The above time limits contained in paragraph (d)(3) shall not apply to those certain noise complaints generated by complainants who reside within, or within 300 feet of, the C-1 Downtown Commercial Zoning District, and are related to the playing of music indoors at bars, taverns and nightclubs or similar entertainment businesses that regularly play music as part of their business. Playing of music indoors for purposes of this exception means that such music is played within the enclosed structure of the business such that doors, windows, patios or other business openings to the outdoors are otherwise closed during the above stated times to prevent the escape of noise to the outdoors, but allowing for periodic ingress and egress to the business through otherwise closed doors.*

Staff believe the change to 11:30 p.m. – 7:00 a.m. Friday and Saturday, and the exception under (a.) above are important to promote a healthy downtown business environment, while still providing noise protections for the City in general.

Staff believes this section is fair and an important part of the proposed noise ordinance. Note there are exceptions contained in 50-90 (e) (3) for events such as the Defeat of Jesse James Days. In addition, outdoor bands at restaurants are allowed to perform during the same hours as permitted for community events such as the Defeat of Jesse James Days.

50-90 (e) (3) Government sponsored or permitted or licensed activities. Certain government, and/or government permitted or licensed public or private activities related to public entertainment, including but not limited to community events such Defeat of Jesse James Days, Fourth of July Fireworks, concerts in public parks, carnivals, and parades, shall be exempt from the provisions of this Section.

Important information that supports this section of the ordinance was included in the Staff Report for the June 14 City Council work session; see the attached report for details.

Norman Butler spoke to the City Council at the June 21, meeting regarding his concerns with the proposed Noise Ordinance. He relayed several issues related to the proposed Noise Ordinance, but the most important was a request to change the time limits for Friday and Saturday nights to Midnight to 7:00 a.m. See the attached copy of Mr. Butler's comments, provided by him. Mr. Butler also filled out a Data Request for information from 2015 and 2016 on all noise complaints and the number of tickets issued for noise complaints.

Police staff was able to provide most of the requested information except nature/cause of complaint, because that would require an extreme amount of staff time to research each incident. Mr. Butler amended his request to exclude that information. Police Department staff tabulated the following number of incidents related to Noise/Loud Music complaints:

Source of Complaint	2014	2015	2016 (thru 06/23/16)
Private Residences	151	170	99
Businesses/Events	70	65	36
Hotels	6	7	2
Colleges	8	6	2

Citations for Noisy Party or Assembly: 15 1

These statistics should be viewed as "approximate" numbers for several reasons. We had to search Computer Aided Dispatch incidents to provide the list of noise related incidents; there can be variation by dispatchers and officers related to the coding or title of incidents as they are created or closed. Once the incident list was generated for each year, staff had to manually review the list and identify source of complaint for each incident, with little information to guide them. Staff attempted to be as accurate as possible when determining the source of the noise, but there is a margin for error. The number of citations should be accurate.

Staff requests the Council to approve this section of the ordinance as proposed to provide a reasonable community standard for enforcement related to music/noise generated from various sources across the City.

Alternative Options:

1. The timeframes for outdoor music in Section 50-90 (d) (3) could be modified to one of several alternatives at the Council's discretion, including:
 - a. 10:30 p.m. to 7:00 a.m. Friday and Saturday
 - b. 11:00 p.m. to 7:00 p.m. Friday and Saturday
 - c. Midnight to 7:00 a.m. Friday and Saturday
 - d. Some other timeframe as chosen by Council.
2. The City Council could choose to delete the proposed language regarding timeframes for outdoor music in Section 50-90 (d) (3). If the remainder of the ordinance is passed,

police would rely on the less specific language in other parts of the ordinance to make a “judgement” on each different complaint.

- a. Staff does not support this, as it could lead to inconsistent/arbitrary enforcement, because there are no clear timeframes.
3. The City Council could choose to either include new “decibel level” language in the Noise Ordinance or rely on “decibel level” language in the Land Development Code (LDC.)
 - a. Staff and City Attorney Hood did find several city ordinances that include decibel level language in their Noise Ordinance, but they were the minority.
 - b. Staff does not support this action. Northfield Police have attempted to use the decibel level standards currently in our LDC, and it has proven futile. These decibel levels are generally standard across the state, as most are based on a state standard. NPD staff has used sound meters in the past to monitor outdoor performances; the recorded levels have not been in excess of the LDC levels, but were clearly audible and bothersome at the location of the complainants.
4. The City Council may choose to permit exceptions to the noise ordinance. Staff found several cities that allow private parties to apply for a permit to exceed city ordinance standards. These types of ordinances were the minority of cities polled. One city limited the number of permits each year to three per business. Most cities required City Council approval of the permit. Most of those ordinances with permitting focus or limit the permits to temporary expansion of liquor licenses and/or limit to permits on public property, similar to our Community Events. Staff does not recommend permitting private exceptions to the ordinance for the following reasons:
 - a. The proposed ordinance already provides exceptions for Community Events approved by the City. Private performances on private property do not normally meet Community Event definitions.
 - b. Past experience with Community Events approved by the City does not support the idea of more permits to violate noise standards. Every year during the Defeat of Jesse James Days celebration, complaints are received about the loud music permitted until late in the evening. Staff believes it is reasonable to limit the number of such exceptions for the general peace and repose of the community at large. As noted above, outdoor bands at restaurants have been allowed to perform during the same hours as permitted for community events such as the Defeat of Jesse James Days.
 - c. Permits would require Council approval. Additional permitting and Council action does not seem prudent or efficient in this matter.
 - d. Some businesses would potentially request permits for every weekend of the outdoor season. This could force difficult decisions by the Council regarding number of permits to be granted, which ones to approve, which business to approve/deny permits, etc.

Tentative Timelines:

If approved, the second reading of the ordinance will take place on August 2, publication on August 9, and the ordinance would be effective September 8, 2016.