



TOWN OF FAIRFAX

STAFF REPORT

June 3, 2015

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager *GT*

SUBJECT: Discuss/consider residents' petitions regarding the noise ordinance

RECOMMENDATION

Discuss/consider residents' petitions regarding the noise ordinance and direct staff as appropriate

BACKGROUND

Note: This item was discussed at the Council's May 6, 2015 meeting and then continued to this meeting. At the May meeting, Councilmember Reed volunteered to meet with the Deer Park Villa owner to discuss possible solutions. Councilmember Reed indicates he will make a verbal report on his discussions at this meeting. Staff was also directed to explore amendments to the Limited Commercial (CL) zoning code to address outdoor music and to include such an option in this staff report. This was in response to a petition submitted at the meeting regarding an amendment to the Limited Commercial (CL) zone. Deer Park Villa is currently zoned CL. Please note that staff incorporated the discussion of recently submitted petition into this agenda item. We have highlighted our analysis of such an option in italics below. As reference, we have also attached the staff reports from the June 4 and November 5, 2014 Council based upon a request from a resident. This background section reflects discussions and actions up to the May 2015 Council meeting.

In October 2013, a group of residents in the Deer Park neighborhood submitted a petition to the Council for consideration. Pursuant to Town Code 2.08.090 (C), if the Council is presented with a petition signed by 25 residents urging consideration of an issue, the issue shall be placed on the Council's agenda for discussion. The petition concerned the Town's noise ordinance and enforcement of the ordinance with regard to Deer Park Villa's outdoor events. Several neighbors spoke at the October 2, 2013 Town Council meeting about their concerns. Staff was directed to hold a neighborhood meeting, which took place in November 2013.

At its February 5, 2014 meeting, the Council discussed the status report on the neighborhood discussions, and directed staff to coordinate a second meeting, but ultimately the parties decided they did not wish or need to meet.

At its May 7th meeting, the Council discussed the noise issues regarding Deer Park Villa and considered proposed revisions to the noise ordinance. The Council did not take action on the proposed revisions to the noise ordinance and indicated that staff should schedule it for consideration at a future meeting.

At the end of May 2014 a group of residents in the Deer Park neighborhood submitted a second petition to the Council, concerning proposed revisions to the Town's noise ordinance and enforcement of the ordinance. It was agendaized for Council discussion on June 4, but the item was continued to July 16, and again to August 6 due to time constraints. While the petition did not specifically identify Deer Park Villa, the discussion with the Council regarding the petition has focused on the noise generated by Deer Park Villa's outdoor events.

At its August 6th meeting, the Council further discussed the matter and directed staff to meet with the owner of Deer Park Villa to evaluate the status of his proposed improvements and other actions he has undertaken to address the noise issue. The business owner has indicated he has undertaken such actions as building sound walls, reducing the occurrence of nightly music on the deck, and requiring outdoor music to end by 9:30pm.

At its October 1, 2014 meeting, the Council further discussed this matter and requested staff follow-up on three items:

- 1) Meet with the business owner of Deer Park Villa again to see if the issue can be resolved *(staff did meet with owner, but did not reach a resolution)*,
- 2) Research the Town minutes to determine the rationale for creating Noise Zones A, B, and C and for locating Deer Park Villa in Noise Zone B *(the minutes contain no details of the Council's discussion of the matter)*; and
- 3) Research information on facilities in Sausalito and Mill Valley *(information was attached to the November staff report)*

The Council then continued the matter to November to allow the owner an opportunity to attend the meeting. The owner had been unable to attend the October Council meeting due to illness. At the November meeting, the owner indicated that he believed there was a judgment against the Town in favor of Deer Park Villa in 1981 and that the judgment addressed the issue of outdoor amplified music at the business.

In light of this information, the Council continued the discussion to its January 2015 meeting to provide time to research this new information. This item was pulled from the January agenda to allow the business owner and residents to participate in a voluntary mediation process conducted by the Council of Neutrals. The Congress of Neutrals (C of N) is a nonprofit organization with over a decade of experience in helping to resolve community disputes and other types of conflicts. Unfortunately, the parties were unable to reach agreement and have requested this item be placed on the agenda. It should be noted that staff does appreciate the effort the parties undertook to mediate a resolution.

DISCUSSION

With regard to the business operator's contention that the Court issued a judgement against the Town regarding noise at Deer Park Villa, staff did obtain a copy of the judgment (see attached) from the Marin County Courts. Unfortunately, any background materials on this matter have already been destroyed by the Court. The judgment concerned the Town's action to prohibit

amplified outdoor music at Deer Park Villa in 1978. Staff could not find any Town records regarding the judgment or suit.

According to Town minutes, in 1976 the Town Council approved a use permit for Deer Park Villa (DPV) which limited outdoor amplified music to 8:30 pm for for-profit events and 10:00pm for charity events. In 1978, the Council reviewed the use permit and modified it to prohibit outdoor music at DPV. DPV filed suit against the Town and in 1979 the Court issued a judgment restraining the Town from prohibiting outdoor music at Deer Park and remanded the matter back to the Town for further hearings. In 1981, the Town adopted the current noise ordinance. It should also be noted that neither the owner nor the Town has a copy of the actual use permit document or letter.

Staff believes that the judgment does not restrict the Council's ability to revise the Town's noise ordinance. As well, there is no indication that the use permit has been modified from the conditions outlined in 1976. As a result, all options are available to the Council to address the noise concerns of the residents. The challenge for the Council is finding the right balance between the neighbors' quiet enjoyment of their properties and the ability of Deer Park Villa to operate its business.

At its May 2015 meeting, the Council directed staff to explore an option to amend the code for the Limited Commercial (CL) zone to restrict the uses for outdoor music. This was in response to the petition submitted at the meeting regarding the item. Deer Park Villa is one of three properties town-wide that have a CL designation. The other two properties are School Street Plaza and 10 Olema. The initial problem with creating a requirement which limits outdoor music in the CL zone is that it may be in conflict with any use permits issued which allow outdoor music. While we can create standards to address outdoor music in the CL zone, it would only apply to future use permits, and not to current use permits. The best approach to address an existing use permit would be to request the Planning Commission to review the use permit and evaluate whether the conditions are being met or should be revised. Staff does not recommend amending the CL zone at this time because the General Plan and Housing Element call for the other two properties to be rezoned to Planned Development District (PDD). However, if directed, we will prepare a zoning amendment to address outdoor music, but it will need to go the Planning Commission first for a recommendation to the Council.

We have developed the following options to address the noise issue:

- 1) Maintain the status quo (no changes to Noise Ordinance);
- 2) Request the Planning Commission to conduct a public hearing to ratify the conditions of the use permit based on the Town minutes and/or modify the conditions as deemed appropriate. Modifications could include limiting outdoor amplified music to an earlier time or ratifying the condition of 8:30 pm for for-profit events and 10:00pm for charity events;
- 3) Revise the Town Code ("Noise Control" Section 8.20.050 (B)(1) Table) to:
 - a. change the "Day" hours for Noise Zone B in which Deer Park Villa is located to end at an earlier time than 10:00pm such as 9:00pm; and/or
 - b. revise the decibel levels in Noise Zone B for day hours; and/or

- c. add different time periods for different days in Zone B (e.g., Friday and Saturday day hours stay at 10:00pm, all other days end at 8:30pm); or

4) Any combination of actions 2-4 above.

Staff does not recommend eliminating or consolidating Noise Zone B into Noise Zone A. It appears one purpose of Noise B is to create transition/buffer zone between Zones A and C. Noise Zone C are the commercial areas of Town including the downtown. Deer Park Villa is the only commercially zoned property in Noise Zone B.

Under any scenario, staff is recommending that existing enforcement provision in the Noise Ordinance be replaced with the attached language to eliminate any confusion and disagreements reflecting our current enforcement practices.

It should be noted that the most straightforward revision to the Town Code would be "3a" above as it would only change the time listed in the Table (see attached). Staff would also recommend that the in conjunction with any revisions to the Noise Ordinance that the Council request the Planning Commission to conduct a public hearing to review and ratify the existing use permit (Option 2).

Based on the Council's direction, staff would return with revisions to the Noise Ordinance at a future public hearing.

FISCAL IMPACT

N/A

ATTACHMENTS

Judgment of Marin County Superior Court

Redline of a section of the Town Noise ordinance

Staff reports from June 4 and November 5, 2015

Petition submitted at the May 6, 2015 Council meeting with names redacted (40 signatures)

12/24/1979

1 RONALD A. SILVEIRA, ESQ.
 2 COSTAMAGNA, CECCOTTI & SILVEIRA
 3 36 Professional Center Parkway
 4 San Rafael, California 94903
 5 TEL: 472-2011

6 Attorneys for Plaintiffs

FILED

DEC 24 1979

PETER MEYER
 MARIN COUNTY CLERK
 BY *[Signature]*
 DEPUTY

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF MARIN

10 ANTOINETTE GHIRINGHELLI and
 11 DEER PARK VILLA, INC., a
 12 California corporation,

13 Plaintiffs and Petitioners,

14 vs.

15 TOWN OF FAIRFAX, a municipality,
 16 and DOES I through C, inclusive,

17 Defendants and Respondents.

NO. 91304

JUDGMENT
 REMANDING THESE
 PROCEEDINGS TO
 THE TOWN COUNCIL
 OF THE TOWN OF
 FAIRFAX AND
 RESTRAINING THE
 ENFORCEMENT OF
 THE ORDER
 PROHIBITING
 OUTSIDE AMPLIFIED
 MUSIC UNLESS SAID
 MUSIC SHALL
 CONSTITUTE A
 PUBLIC NUISANCE
 AND BE FOUND TO
 BE TOO LOUD IN THE
 OPINION OF A
 POLICE OFFICER OF
 THE TOWN OF
 FAIRFAX

18 This matter came on regularly before the above-entitled
 19 court on September 25, 1979, for hearing in the courtroom of the
 20 Honorable Peter Allen Smith, Judge Presiding, in Department 4 of

1 the above-entitled court, pursuant to the verified petition of
2 petitioners herein. An alternative Writ of Mandamus issued herein
3 on November 3, 1978 was served on respondent. Ronald A. Silveira,
4 Esq., of the law firm of Costamagna, Ceccotti & Silveira, appeared
5 as attorney for petitioners, and Wallace S. Myers, Esq., of the
6 law firm of Myers, Praetzel & Garety, appeared as attorney for
7 respondent.

8 The record of a portion of the dispositive administrative
9 proceeding having been received into evidence and examined by the
10 above-entitled court, additional evidence having been received by
11 the court, arguments having been presented, the court having made
12 findings of fact and conclusions of law which have been signed and
13 filed, and the court having directed that judgment should issue
14 in the cause,

15 IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

16 1. That these proceedings be remanded to the Town Council
17 of the Town of Fairfax for further hearings and the making of
18 findings of fact and conclusions of law and report to this court,
19 and pending said hearings and report, that respondents be restrained
20 from prohibiting amplified music played outdoors at the premises
21 unless said amplified music shall, at the time, constitute a public
22 nuisance or be found and determined to be too loud in the opinion
23 of a police officer of the Town of Fairfax.

24 DONE, IN PART, IN OPEN COURT this 25th day of September, 1979,
25 supplanted and superseded by the Memorandum of Opinion signed

26 ///

1 25th day of October, 1979, and signed this 24 day of
2 October, 1979.

3
4 *John Allred*
5 Judge of the Superior Court
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7
8

9 APPROVED AS TO FORM:

10 MYERS, PRAETZEL & GARETY

11
12 By *Wallace S. Myers*
13 *Wallace S. Myers*
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Wallace S. Myers
Attorneys for Respondent

FAIRFAX, CA MUNICIPAL CODE OF ORDINANCES

§ 8.20.050 EXTERIOR NOISE LIMITS.

(A) *Maximum permissible sound levels by receiving land use.*

(1) The noise standards for the various noise zones as presented in the following table shall, unless otherwise specifically indicated, apply to all such property within a designated zone.

(2) No person shall operate or cause to be operated any source of sound at any location within the incorporated town, or allow the creation of any noise on property owned, leased, occupied or otherwise controlled by the person, which causes the noise level when measured at the complainant's property line to exceed the limits in the table below for more than seven and one-half minutes in a 15- minute period. Those seven and one-half minutes need not be continuous.

(3) If the measured ambient level differs from that permissible, the allowable noise exposure standard shall be adjusted in five-decibel increments in each category as appropriate to encompass or reflect the ambient noise level.

(4) If the measurement location is on a boundary between two different zones, the noise level limit applicable to the lower noise zone shall apply.

(B) *Correction for character of sound.*

(1) In the event the alleged offensive noise, as judged by the Chief of Police or his or her designated representative, contains a steady, audible tone such as a whine, screech or hum, or is a repetitive noise such as hammering or riveting, or contains music or speech, the standard limits set forth in the table below shall be reduced by five decibels. If the Chief of Police determines that the noise is extremely offensive to a person of normal sensitivity because it contains a steady, audible or high-pitched whine, screech, or hum, is repetitive (such as hammering or riveting) or is music or speech that is distorted, contains emphatic beats or vulgar or profane language, the Chief of Police, or his or her designated representative, may reduce the exterior noise limit by 5 decibels

| <i>Exterior Noise Limits</i> <i>(Levels not to be exceeded more than 7.5 minutes in any 15-minute period)</i> | | | |
|--|---------------------------|------------------------|---------------------------------|
| <i>Noise Zone</i> | <i>Time Period</i> | | <i>Noise Level (dBA)</i> |
| A (Residential) | Night | 10:00 p.m. - 7:00 a.m. | 40 |
| | Day | 7:00 a.m. - 10:00 p.m. | 50 |
| B (Multiple Dwelling, Residential) | Night | 10:00 p.m. - 7:00 a.m. | 50 |
| | Day | 7:00 a.m. - 10:00 p.m. | 55 |
| C (Commercial) | Night | 10:00 p.m. - 7:00 a.m. | 55 |
| | Day | 7:00 a.m. - 10:00 p.m. | 60 |

(2) These zones are illustrated on Exhibit A, "Noise Zones, Town of Fairfax," attached to the ordinance codified in this chapter. Areas that are not covered on the map are included in Zone A.



TOWN OF FAIRFAX

STAFF REPORT

June 4, 2014

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager

SUBJECT: Discuss residents' petition regarding the noise ordinance

RECOMMENDATION

Discuss residents' petition regarding the noise ordinance.

DISCUSSION

A group of residents have submitted the attached petition (names redacted) to the Council for consideration. Pursuant to Town Code 2.08.090 (C), if the Council is presented with a petition signed by 25 residents urging consideration of an issue, the issue shall be placed on the Council's agenda for discussion. The petition concerns any proposed revisions to the Town's noise ordinance and enforcement of the ordinance.

At its May 7th meeting, the Council discussed the noise issues regarding Deer Park Villa and considered proposed revisions to the noise ordinance. The Council did not take action on the proposed revisions to the noise ordinance and indicated that staff should schedule it for consideration at a future meeting. The Council also indicated it would like to consider the results from the proposed sound reduction improvements at Deer Park Villa at a future meeting.

With regard to the enforcement of the noise ordinance, a question was raised by a resident at the January Council meeting regarding the interpretation of Section 8.20.050 (B) (1) (see attached). At the February meeting, staff indicated that the noise ordinance is poorly written and needs to be revised. As a result, the Police will continue to enforce the Noise Ordinance based on its current practice until the ordinance is amended. Staff reiterated this position in the staff report and presentation at the Council meeting in May.

FISCAL IMPACT

n/a

ATTACHMENT

Resident petition (names redacted), Town Code section 8.20.050(B)(1)

RECEIVED

MAY 28 2014

TOWN OF FAIRFAX

We the undersigned residents of Fairfax urge the Town Council to consider the following petitions:

1. that the Council retain the wording of the Correction for character of sound, 8.20.050 (4)(B)(1) of the Town of Fairfax, California, Municipal Code of Ordinances.

2. that, if the Council decides to change the wording of the above section, it replace it with the following: "Each of the noise limits specified in the Exterior Noise Limits table below shall be reduced by five dB for repetitive noise such as hammering or riveting, simple tone noises such as a whine, screech or hum, or for noise consisting of speech or music."

3. that the Town continue to enforce the above section as it is written in the Code until changes, if any, are made, in accordance with 1.04.160 (A) of the Code: "Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the ordinance repealing or modifying it becomes effective unless otherwise expressly provided."

4. that the Fairfax Police Department respond to noise complaints in a consistent manner, following long standing procedures practiced both in Fairfax and its neighboring communities.

| signature | name(printed) | address | email (optional) |
|-----------|---------------|---------|------------------|
|-----------|---------------|---------|------------------|



Fairfax, CA Municipal Code of Ordinances

§ 8.20.050 EXTERIOR NOISE LIMITS.

(A) *Maximum permissible sound levels by receiving land use.*

(1) The noise standards for the various noise zones as presented in the following table shall, unless otherwise specifically indicated, apply to all such property within a designated zone.

(2) No person shall operate or cause to be operated any source of sound at any location within the incorporated town, or allow the creation of any noise on property owned, leased, occupied or otherwise controlled by the person, which causes the noise level when measured at the complainant's property line to exceed the limits in the table below for more than seven and one-half minutes in a 15- minute period. Those seven and one-half minutes need not be continuous.

(3) If the measured ambient level differs from that permissible, the allowable noise exposure standard shall be adjusted in five-decibel increments in each category as appropriate to encompass or reflect the ambient noise level.

(4) If the measurement location is on a boundary between two different zones, the noise level limit applicable to the lower noise zone shall apply.

(B) *Correction for character of sound.*

(1) In the event the alleged offensive noise, as judged by the Chief of Police or his or her designated representative, contains a steady, audible tone such as a whine, screech or hum, or is a repetitive noise such as hammering or riveting, or contains music or speech, the standard limits set forth in the table below shall be reduced by five decibels.

| <i>Exterior Noise Limits</i> <i>(Levels not be exceeded more than 7.5 minutes in any 15-minute period)</i> | | | |
|---|--------------------|------------------------|--------------------------|
| <i>Noise Zone</i> | <i>Time Period</i> | | <i>Noise Level (dBA)</i> |
| A (Residential) | Night | 10:00 p.m. - 7:00 a.m. | 40 |
| | Day | 7:00 a.m. - 10:00 p.m. | 50 |
| B (Multiple Dwelling, Residential) | Night | 10:00 p.m. - 7:00 a.m. | 50 |
| | Day | 7:00 a.m. - 10:00 p.m. | 55 |
| C (Commercial) | Night | 10:00 p.m. - 7:00 a.m. | 55 |
| | Day | 7:00 a.m. - 10:00 p.m. | 60 |

(2) These zones are illustrated on Exhibit A, "Noise Zones, Town of Fairfax," attached to the ordinance codified in this chapter. Areas that are not covered on the map are included in Zone A.

(Prior Code, § 8.16.050) (Ord. 481, passed - -1981; Am. Ord. 529, passed - -1984)



TOWN OF FAIRFAX

STAFF REPORT

November 5, 2014

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager GT

SUBJECT: Discuss/consider residents' petition regarding the noise ordinance

RECOMMENDATION

Discuss/consider residents' petition regarding the noise ordinance and direct staff as appropriate with regard to follow-up actions.

DISCUSSION

A group of residents submitted the attached petition (names redacted) to the Council for consideration. Pursuant to Town Code 2.08.090 (C), if the Council is presented with a petition signed by 25 residents urging consideration of an issue, the issue shall be placed on the Council's agenda for discussion. The petition concerns proposed revisions to the Town's noise ordinance and enforcement of the ordinance. It should be noted that while the petition does not specifically identify Deer Park Villa, the discussion with the Council regarding the petition has focused on the noise generated by Deer Park Villa's outdoor events.

At its May 7th meeting, the Council discussed the noise issues regarding Deer Park Villa and considered proposed revisions to the noise ordinance. The Council did not take action on the proposed revisions to the noise ordinance and indicated that staff should schedule it for consideration at a future meeting.

At its August 6th meeting, the Council further discussed the matter and directed staff to meet with the owner of Deer Park Villa to evaluate the status of his proposed improvements and other actions he has undertaken to address the noise issue. The business owner has indicated he has undertaken such actions as building sound walls, reducing the occurrence of nightly music on the deck, and requiring outdoor music to end by 9:30pm. Staff's perception is that these actions have not reduced the noise to acceptable levels for some of the impacted residents.

At its October 1st meeting, the Council further discussed this matter and requested staff follow-up on three items:

- 1) Meet with the owner of Deer Park Villa again to see if the issue can be resolved.
- 2) Research the Town minutes to determine the rationale for creating Noise Zones A, B, and C and for locating Deer Park Villa in Noise Zone B; and
- 3) Research information on facilities in Sausalito and Mill Valley.

The Council then continued the matter to November to allow the owner an opportunity to attend the meeting. (He was unable to attend the October Council meeting due to illness.) With regard to item 1, staff will report verbally at the meeting on the discussion with the owner. For item 2, while the minutes indicate the Council adopted the Noise Ordinance, they contain no details of the Council's discussion of the matter. For item 3, please see the attached summary of staff's research on the facilities as well as a comparison table of noise requirements in Marin County.

The challenge for the Council is finding the right balance between the neighbors' quiet enjoyment of their properties and the ability of Deer Park Villa to operate its business. If the Council is unsatisfied with the owner's actions as reported by staff, they could consider the following options to address the noise issue:

- 1) Maintain the status quo (no changes to Noise Ordinance);
- 2) Revise the Noise Ordinance to change the "Day" hours for Noise Zone B in which Deer Park Villa is located (e.g., revise day hours to end at 9:00pm instead of 10:00pm);
- 3) Revise the decibel levels in Noise Zone B for day hours;
- 4) Add different time periods for different days in Zone B (e.g., Friday and Saturday day hours stay at 10:00pm, all other days end at 8:00pm);
- 5) Revise the enforcement provision in the Ordinance (staff recommends); or
- 6) Any combination of actions 2-5 above.

Staff does not recommend eliminating or consolidating Noise Zone B into Noise Zone A. It appears one purpose of Noise B is to create transition/buffer zone between Zones A and C. For the sake of simplicity, the Council may just want to change the day time hours in Zone B to address the noise issue. Staff would also recommend that the existing enforcement provision be replaced with the attached language.

Based on the Council's direction, staff would return with revisions to the Noise Ordinance at a future public hearing.

FISCAL IMPACT

n/a

ATTACHMENTS

Other Facilities

Comparison Table

Revised enforcement provision

OTHER FACILITIES

Sausalito Women's Club <http://sausalitowomansclub.org/club-rentals>

Only allow 12 rentals per year

Cost:

For weekend events (Fri, Sat & Sun) the rental fee is **\$2,500**.

A **\$1,200 refundable** security deposit is due when the rental contract is submitted, and the rental fee is payable 2 months prior to the function. Weekend rentals include All Day, with an option to purchase a 3-hour block of time the day before or the day after, depending on availability, for \$250.

For weekday events, the rental fee is **\$1,650**.

An **\$800 deposit** is required at booking, and the balance of the rental fee is payable 8 weeks prior to the event.

Space:

The first floor is 2600 square feet, and has a stage; 2 smaller private rooms upstairs; plus "outdoor room" garden patio

- Wine, beer and cocktails: may be served indoors and/or on the patio by your caterer.
- Dancing: space available in the ballroom.
- Entertainment: live music, a DJ, or recorded music are all acceptable. Amplified musical instruments are not allowed. Sound must be contained within the property boundaries.
- Catering: Selection from a list of preferred caterers in order to ensure a flawless rental experience.
Parking: free parking-lot with door-to-door shuttle service (paid for by renter) to and from the Clubhouse.
- Kitchen: completely refurbished and beautifully updated fully equipped with modern refrigeration, food preparation, cooking facilities.
- Audio Visual Equipment: a pull-down screen and stage lighting.
- Guest Accommodations: a number of hotels located a short distance away in downtown Sausalito.
- Rental includes tables and chairs.

Mill Valley Outdoor Arts Club <http://www.outdoorartclub.org/rentals.html>

Cost:

Rental rate is **\$3,900** for Saturdays and **\$3,500** for Fridays and Sundays.

Rental calendar online shows it's booked solid.

Music must be no more than 65 decibels up to 9:00 pm and 50 decibels thereafter. Generally, if the music is being played indoors, closing all the doors at 9 p.m. will meet the noise limits. Mill Valley noise ordinance requires all amplified music must be indoors only.

COMPARISON OF MARIN COMMUNITIES RESTRICTIONS ON OUTDOOR AMPLIFIED MUSIC

| <i>Jurisdiction</i> | <i>Analysis</i> |
|-----------------------|---|
| Sausalito | Section 12.16.180 prohibits outdoor amplified sound for <u>commercial</u> purposes |
| San Anselmo | <u>"San Anselmo has always allowed amplified sound for temporary events (Country Fair Day, Art and Wine Festival, etc.) and our Planning Commission recently granted a use permit for amplified sound for a weekly food truck event at Red Hill Shopping Center."</u> (Diane Henderson) |
| Ross | Ross regulates "unnecessary noise" (RMC Chapter 9.20): 9.20.040 Musical instruments. (a) <u>No person shall at any time use or operate any musical instrument, or any device, machine, apparatus, or instrument for the intensification or amplification of the human voice or any sound or noise, in such a manner that persons owning, using, or occupying property in the neighborhood are reasonably disturbed or annoyed.</u> |
| Mill Valley | "Amplified music is regulated through our Conditional Use process. As of right now, the Sweetwater Music Hall is prohibited (by special condition of approval) to have amplified outdoor music. <u>We do allow amplified music for special events with limitations on hours and location.</u> The Mill Valley Outdoor Art Club is allowed amplified music; however, it is required to remain indoors." |
| Tiburon | Requires a permit for special occasions for nonresidential use of musical instruments including amplification of music. |
| Marin Co. | 6.70.020 Prohibition. It is unlawful for any person to make, continue, or cause to be made or continued, any loud, unnecessary or unusual noise which either annoys, disturbs, injures or endangers the comfort, repose, health or peace of others. (Marin County Code) |
| Marin (as a whole...) | Novato: "A restaurant with amplified music needs a use permit (a restaurant alone does not). If the use predates the UP requirement, we would refer to the noise limits in our Zoning Code..." (Bob Brown) [E.g. Residential 6 a.m. to 10 p.m. = 60 dBA] |
| Larkspur | Larkspur permits outdoor amplified music in a number of commercial zones, subject to a conditional use permit. However, the noise ordinance (LMC 9.54) prevails. While the limits in the commercial zones are liberal (55 dBA) anytime, if the receiving land use is residential this becomes much more restrictive: 7 A.M. – 10 P.M. 45 dBA and 10 P.M. – 7 A.M. 35 dBA |

Staff proposes that Subdivision (B)(1) of Section 8.20.050 of the Town Code be amended to read as follows:

(1) "If the Chief of Police determines that the noise is extremely offensive to a person of normal sensitivity because it contains a steady, audible or high-pitched whine, screech, or hum, is repetitive (such as hammering or riveting) or is music or speech that is distorted, contains emphatic beats or vulgar or profane language, the Chief of Police, or his or her designated representative, may reduce the exterior noise limit by 5 decibels."

RECEIVED

MAY 06 2015

TOWN OF FAIRFAX

We the undersigned petition the town council to amend the ordinance governing permitted uses of the Limited Commercial (CL) zone 17.092.040 so that it retains the current restrictions but so that it includes the following changes regarding amplified speech, restaurant service and entertainment of customers by music:

- allow amplified music and speech entirely within a building until 10:00 p.m.,
- allow non-amplified music outdoors until 8:30, and
- allow outdoor dining and beverage service at a distance of 175 feet or more from any residential property (RD 5.5-7) until 10:00 p.m.

name & signature

address

tel/email