



TOWN OF FAIRFAX

STAFF REPORT

May 7, 2014

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager

SUBJECT: Discuss status update on noise issues regarding Deer Park Villa and consider proposed revisions to Noise Ordinance

RECOMMENDATION

Discuss/consider status update and proposed noise ordinance and direct staff as appropriate

DISCUSSION

At the February 5th Council meeting, the Council discussed the status report regarding the noise at Deer Park Villa and directed staff to facilitate another meeting between the owner and the neighborhood. Prior to staff coordinating a meeting, a few residents and the owner met privately to discuss the issues. It was determined that another neighborhood meeting was not needed to allow the owner an opportunity to implement some changes (e.g., adjust speakers).

The primary concern of the neighborhood continues to remain the same: noise generated by outdoor events caused by amplified music and speeches (e.g., wedding speeches). The dilemma is that the owner's efforts to grow the business is related to the use of the outdoor venue (e.g., wedding, parties), which probably creates more opportunities for amplified sound. The neighbors continue to file noise complaints and the Police continue to respond to complaints. No new citations have been issued.

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.

To facilitate the amendment of the noise ordinance, attached is redline of the current noise ordinance. The key revisions will: a) provide the Police more discretion in determining if a noise is offensive and whether to reduce the decibel level and b) raise the daytime noise limit to 60 dBA. The Noise Element of the General Plan explains that 60 dBA L_{DN} is an accepted upper limit for environmental noise in a residential setting in the State of California (General Plan Noise Element, pp. N-21 to N-22). Attached is comparison chart included in the Noise Element. A 60 dBA level is a conversation in an active office environment. Typical California construction with windows open provides about 15 dBA of noise reduction inside a residence relative to outside. An L_{DN} of 45 dBA is considered the upper limit of acceptability for residential development in California (General Plan Noise Element, pp. N-22). The proposed noise ordinance reflects this analysis by amending the daytime exterior noise limit in all noise zones to 60 dBA. It should also be noted that ambient noise levels in Town have probably increased since the Noise Limit Table was created. The night time limits are not being changed.

While the General Plan would seem to support increasing the dBA level, staff is cognizant of residents' concerns townwide regarding noise. The General Plan Noise Element does have goals related to new development to "make land uses compatible with the noise environment" (Noise Element Goal N-1) and "maintain the current quality of the acoustical environment" (Noise Element Goal N-3). It would be reasonable for the Council to extend this to existing uses and consider the impacts of increasing the noise standard to 60 dBA.

The other revisions in the code are recommended by the Town Attorney to enable the enforcement of the ordinance to withstand legal challenges. Staff is seeking direction on the proposed revisions. The Council may direct staff to bring the proposed noise ordinance back to the Council for a first reading or schedule the item for more discussion at a future Council meeting or workshop with more outreach to the community.

FISCAL IMPACT

None at this time.

ATTACHMENTS

Muni Code Section 8.20.050 (B) (1)

Proposed Noise Ordinance

Noise comparison chart

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.

Exterior Noise Limits <i>(Levels not be exceeded more than 7.5 minutes in any 15-minute period)</i>			
Noise Zone	Time Period		Noise Level (dBA)
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)

35 **WHEREAS**, the noise ordinance has not been updated to conform the exterior noise limits to the
36 findings, goals and policies of the General Plan; and

37 **NOW, THEREFORE**, the Town Council of the Town of Fairfax does ordain as follows:

38 **SECTION 1.** In conformance with the General Plan Noise Element, the “Exterior Noise
39 Limits” table in Section 8.20.050 of the Town Code shall be amended so that the daytime
40 exterior noise limit in all noise zones shall be 60 dBA.

41 **SECTION 2.** Subdivision (B)(1) of Section 8.20.050 shall be amended to read as
42 follows:

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

48 **SECTION 3.** Section 8.20.060 shall be amended to read as follows:

49 § 8.20.060 PROHIBITED ACTS.

50 (A) Street sales.

51 (1) Offering for sale, selling anything or advertising by shouting or outcry within any
52 residential or commercial area or noise-sensitive zone of the town is prohibited, except by permit
53 issued by the town. In granting or denying the permit, the Town shall consider the constitutional
54 right of free speech of all persons, including the applicant, the impact of the activity on the
55 efficient flow of vehicular and pedestrian traffic, and the possible unlawful disturbance of the
56 public peace if the permit is granted. Conditions may be imposed as appropriate to regulate the
57 time, place and manner of such sales in order to maintain the efficient flow of vehicular and
58 pedestrian traffic, to preserve the peace and quiet of the Town, and to ensure that the applicant
59 complies with all applicable laws, regulations and ordinances.

60 (2) The provisions of this division (A) shall not be construed to prohibit the selling, by
61 outcry, of merchandise, food and beverages at licensed sporting events, parades, fairs, circuses or
62 other similar licensed public entertainment events.

63 (B) Animals and birds.

64 (1) Owning, possessing or harboring any animal which makes noise which is detectable on
65 the complainant’s property, and which is repeated intermittently for a duration of 15 minutes or
66 more, is prohibited.

67 (2) In addition to being subject to the penalties of this chapter, animal noise disturbance
68 cases will also be referred to the Humane Society.

69 (C) Construction/demolition/property maintenance domestic power tools and equipment.

70 (1) The operation of any mechanically powered tools or equipment used in construction or
71 demolition work or in property maintenance work between the hours of 6:00 p.m. and 8:00 a.m.
72 Monday through Friday or on weekends and holidays between the hours of 4:00 p.m. and 9:00
73 a.m. ~~such that the sound therefrom creates a noise disturbance~~ is prohibited.

74 ~~—(2) Operating or permitted the operation of any mechanically powered tools between the~~
75 ~~hours of 6:00 p.m. and 8:00 a.m. Monday through Friday and between 4:00 p.m. and 9:00 a.m.~~
76 ~~on weekends and holidays is prohibited.~~

77 (D) Machinery. Any motor, machinery or pump, such as swimming pool equipment and the
78 like, shall be sufficiently enclosed or muffled and maintained so as not to create a noise-~~or~~
79 disturbance.

80 ~~—(E) Motor vehicle horns. It is unlawful for any person to sound a vehicular horn, except as a~~
81 ~~warning signal, pursuant to Cal. Motor Vehicle Code § 27001.~~

82 ~~(F)~~ Motorized recreational vehicles operating off public right-of-way.

83 (1) No person shall operate or cause to be operated any motorized recreational vehicle off a
84 public right-of-way in a manner that the sound levels emitted therefrom violate the provisions of
85 § 8.20.050; except that nighttime limits shall apply regardless of time of day of such activities.

86 (2) This division (F) applies to all motorized recreational vehicles, whether or not duly
87 licensed and registered, including, but not limited to commercial or noncommercial racing
88 vehicles, motorcycles, go-carts, campers and dune buggies.

89 Editor's Note:

90 ~~—Nighttime limits shall apply to these time periods.~~

91 **SECTION 4.** Subdivision (D) of Section 8.20.070 shall be amended to read as follows:

92 (D) Operating or permitting the operation of any mechanically powered tools or equipment
93 for construction, demolition or property maintenance work between 8:00 a.m. and 6:00 p.m.
94 Monday through Friday, and 9:00 a.m. to 4:00 p.m. on weekends and holidays are exempt.
95 Anyone operating such tools or equipment during permitted hours shall use best practices to
96 enclose, muffle or maintain such equipment so as to minimize noise.

97 **SECTION 5.** If any section, subsection, subdivision, paragraph, sentence, clause or
98 phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional or

99 invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the
100 validity or effectiveness of the remaining portions of this ordinance or any part thereof. The
101 Town Council hereby declares that it would have passed each section, subsection, subdivision,
102 paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more
103 sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared
104 unconstitutional, or invalid, or ineffective.

105 **SECTION 6.** Copies of the foregoing ordinance shall, within fifteen days after its final
106 passage and adoption, be posted in three public places in the Town of Fairfax, to wit:

- 107 1. Bulletin Board, Town Hall offices;
- 108 2. Bulletin Board, Fairfax Post Office;
- 109 3. Bulletin Board, Fairfax Women’s Club building.

110
111 This ordinance shall be in full force and effect thirty days from and after its final passage and
112 adoption.

113 The foregoing ordinance was duly and regularly introduced at a regular meeting of the Fairfax
114 Town Council, held in said Town on the ____th day of ____ 2014, and thereafter adopted at a
115 regular meeting of the Town Council, here in said Town on the _____day of _____, 2014, by
116 the following vote, to wit:

117 AYES:
118 NOES:
119 ABSENT:

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Mayor

Attest:

Michele Gardner, Town Clerk

TABLE N-2 TYPICAL NOISE LEVELS IN THE ENVIRONMENT

Common Outdoor Noise Source	Noise Level (dBA)	Common Indoor Noise Source
	120 dBA	
Jet fly-over at 300 meters		Rock concert
	110 dBA	
Pile driver at 20 meters		Night club with live music
	100 dBA	
Large truck pass by at 15 meters		Noisy restaurant
	90 dBA	Garbage disposal at 1 meter
Gas lawn mower at 30 meters		Vacuum cleaner at 3 meters
Commercial/Urban area daytime		Normal speech at 1 meter
Suburban expressway at 90 meters		
Suburban daytime		Active office environment
	50 dBA	
Urban area nighttime		Quiet office environment
	40 dBA	
Suburban nighttime		Library
Quiet rural areas		Quiet bedroom at night
	30 dBA	
Wilderness area		Quiet recording studio
	20 dBA	
	10 dBA	
Threshold of human hearing		Threshold of human hearing
	0 dBA	

Source: Illingworth & Rodkin, 2009.

The Occupational Safety and Health Administration (OSHA) have a noise exposure standard that is set at the noise threshold where hearing loss may occur from long-term exposures. The maximum allowable level is 90 dBA averaged over eight hours. If the noise is above 90 dBA, the allowable exposure time is correspondingly shorter.

Sleep and Speech Interference

The thresholds for speech interference indoors are about 45 dBA if the noise is steady and above 55 dBA if the noise is fluctuating. Outdoors the thresholds are about 15 dBA higher. Steady noise of sufficient intensity (above 35 dBA) and fluctuating noise levels above about 45 dBA have been shown to affect sleep. Interior residential standards for