



# TOWN OF FAIRFAX

## STAFF REPORT

### October 1, 2014

**TO:** Mayor and Town Council

**FROM:** Garrett Toy, Town Manager 

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

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#### **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 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. 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 7<sup>th</sup> 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.

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 (see attached). 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 reports and presentations at the May and August Council meetings.

At its August 6<sup>th</sup> meeting, the Council further discussed the matter and directed staff to meet with the business owner to evaluate the status of his proposed improvements and other actions he has undertaken to address the noise issue. The owner of Deer Park Villa has indicated he has undertaken such actions as building sound walls, reduced the occurrence of nightly music on the deck, and required 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.

Staff also does not believe a compromise can be reached without action by the Council. As a result, we recommend the Council consider the following options:

- 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.

Even with Council action, it is unclear whether any solution can be implemented that would be mutually acceptable to the affected residents or the business owner. Specifically, the business owner has indicated a revision to the Noise Ordinance that impacts his current business may force him to sell the business and/or property to a developer. Based on the Council's direction, staff would return with revisions to the Noise Ordinance at a future meeting.

#### **FISCAL IMPACT**

n/a

#### **ATTACHMENTS**

Resident petition (names redacted)  
Town Code section 8.20.050(B)(1)  
Revised enforcement provision

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.

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

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.”