



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	“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.” (Diane Henderson)
Ross	Ross regulates “unnecessary noise” (RMC Chapter 9.20): 9.20.040 Musical instruments. (a) <u>No</u> person shall at any time use or operate any musical instrument, or any device, machine, apparatus, or instrument for the intensification or <u>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.”