

MEMO

To: Steven Ross, Contract Planner
CITY OF BENICIA

From: Sara Allinder, Michael Baker International

Cc: Shawna Brekke-Read, City of Benicia Community Development Director

Date: September 6, 2017

Re: Benicia Noise Regulations: Summary of Research

BACKGROUND AND PURPOSE

In the course of working under our existing contract with the City of Benicia for establishing a review process for live entertainment uses with the downtown area, additional issues were raised by the community and City staff. These concerns related to the consistency of noise standards of the existing Benicia Municipal Code (BMC) with the General Plan as well as with the effectiveness of current regulations to facilitate enforcement of noise violations. As a result, Michael Baker has been contracted to explore potential amendments to the citywide noise regulations, including conducting additional research relative to enforcement strategies for noise violations.

The purpose of this memo is to provide a summary of existing noise regulations in the City of Benicia, identify considerations and best practices for noise attenuation and enforcement strategies, present a comparison of similar communities' noise regulations and practices, and identify preliminary considerations for discussion with City staff for amending existing noise regulations, including amendments to the Downtown Mixed Use Master Plan (DMUMP).

SUMMARY OF EXISTING NOISE REGULATIONS

Based on a review of relevant City documents and previous discussions with City staff, the Michael Baker team understands the City of Benicia uses the following regulatory framework for evaluating projects relative to the existing noise standards within the City limits, including the downtown area.

BENICIA GENERAL PLAN

The Community Health and Safety Element of the City's General Plan includes discussion, goals, policies and programs for noise¹ and establishes general performance standards for noise sensitive land uses

¹ Reference Section D of the Community Health and Safety Element

(e.g., residential, lodging, hospitals, schools and other civic uses) affected by transportation and stationary noise sources. As the focus of our research is on entertainment uses, the scope of this discussion is limited to the standards relative to stationary noise sources.

Table 1 below identifies the performance standards for exterior and interior ambient noise levels for daytime and nighttime hours, which apply citywide as adopted in the General Plan. The intent of the performance standards is twofold: to prevent new stationary noise sources from encroaching on existing noise-sensitive land uses and to prevent new noise-sensitive land uses from encroaching on existing stationary noise sources. The levels identified are for hourly ambient noise levels and new land uses should be evaluated relative to these performance standards with respect to the standard daily or weekly operating conditions.

There is an allowance for an increase in the identified ambient noise levels of up to 3dB. For instance, the daytime ambient noise level standard for residential uses is 55dB; however, an ambient noise level of up to 58 dB would be considered acceptable with no significant impact. Increases beyond 3dB would be considered a significant environmental impact.

Table 1. Noise Level Performance Standards for Noise-Sensitive Land Uses Which May Be Affected by Stationary Noise Sources

Land Use	Exterior Hourly L_{eq} , dB		Interior Hourly L_{eq} , dB	
	Daytime 7 a.m. to 10 p.m.	Nighttime 10 p.m. to 7 a.m.	Daytime 7 a.m. to 10 p.m.	Nighttime 10 p.m. to 7 a.m.
Residential	55	50	40	35
Transient Lodging	55	50	40	35
Hospitals	--	--	40	35
Nursing Homes	55	50	40	35
Theaters, Auditoriums	--	--	35	35
Churches	55	50	40	40
Schools	55	50	45	45
Libraries	55	50	45	45

Source: Table 4-4 of the Benicia General Plan, Community Health and Safety Element

Implementation Guidance

General Plan Program 4.23.C acknowledges that updates to City’s noise ordinance may be necessary to align citywide noise regulations with the performance standards, identified in **Table 1** above. While this program is focused on addressing the impacts of roadway improvements on noise-sensitive land uses, the intent of aligning citywide noise regulations with the performance standards of the General Plan would be applicable to the evaluation of all impacts to noise-sensitive land uses.

The General Plan also provides guidance for the preparation of acoustical analyses pursuant to the Noise Section of the Plan, identified in Appendix I: Requirement for Acoustical Analysis.

DOWNTOWN MIXED USE MASTER PLAN

The Downtown Mixed Use Master Plan (DMUMP) is the primary regulatory tool for businesses and homes specifically in the downtown area. The DMUMP is primarily a form-base code that focuses on the physical form of structures in the downtown area with minimal emphasis on controlling uses. The DMUMP establishes the following zone districts within the downtown:

- **Town Core (TC).** The primary intent of this zone is to enhance the vibrant, pedestrian-oriented character of First Street.
- **Town Core-Open (TC-O).** The primary intent of this zone is to provide an appropriate transition from First Street into the residential neighborhoods with a focus on regulation of the shopfront buildings along the side streets between First Street and Second Street.
- **Neighborhood General (NG).** The primary intent of this zone is to protect the integrity and quality of the downtown residential neighborhoods.
- **Neighborhood General-Open (NG-O).** The primary intent of this zone is to provide an appropriate transition from First Street into the residential neighborhoods with a focus on regulation of residential buildings along the side streets between First Street and Second Street.

The DMUMP does not specifically allow entertainment uses; however, it does allow bars, taverns, and nightclubs as well as restaurants, cafes, and coffee shops in specified zone districts. These uses would typically be those that would request indoor or outdoor entertainment uses in conjunction with the primary use on-site. **Table 2** identifies which zone districts these land uses are or are not permitted in and the type of permit required.

Table 2. Allowed Land Uses and Permit Requirements in the DMUMP (Select Land Uses)

Land Use	Town Core (TC)	Town Core-Open (TC-O)	Neighborhood General (NG)	Neighborhood General-Open (NG-O)
Bars, taverns, nightclubs except with any of the following features	P	UP	NA	NA
Operating between 9 p.m. and 7 a.m.	UP	NA	NA	NA
Restaurant, café, coffee shop	P	MUP	NA	MUP

Source: Tables 4.1, 4.2, 4.4, and 4.5 of the Benicia Downtown Mixed-Use Master Plan

P = Permitted Use

MUP = Minor Use Permit – staff review only

UP = Use Permit Required

NA = Not an allowed use

While indoor entertainment uses may be permitted there are no standards or permit procedures established in the DMUMP to review or allow outdoor entertainment uses with the exception of some hourly restrictions on bars, taverns, and nightclubs operating past 9 p.m., as noted above in **Table 2**. In

the absence of specific noise standards within the DMUMP, the regulations of the Benicia Municipal Code, specifically Chapter 8.20 (Noise Regulations) apply.

BENICIA MUNICIPAL CODE CHAPTER 8.20 (NOISE REGULATIONS)

The City’s Noise Regulations Chapter (Chapter 8.20 of the BMC) establishes ambient base noise levels for daytime and nighttime hours by zone district. However, as the regulations of Chapter 8.20 apply citywide and were enacted prior to adoption of the DMUMP, the zone districts identified in Chapter 8.20 do not reflect the zone districts established within the downtown area (i.e., TC, TC-O, NG and NG-O). It is also noted that the zone districts identified in Chapter 8.20 do not reflect the current zone districts for the City, as identified in Title 17 (Zoning) of the BMC). In addition to identifying the ambient base noise level by zone district, Chapter 8.20 also identifies variable ambient base noise levels by community environment, including very quiet, quiet, and slightly noisy, as summarized in **Table 3** below. It is not clear as to whether the identified ambient base noise levels are for interior or exterior; however, it may be assumed that they are for exterior noise levels.

Table 3. Ambient Base Noise Levels Established by Chapter 8.20 of the BMC (Noise Regulations)

Zone District, Applicable Times		Sound Level A, dB				
		Community Environment Classification				
		Very Quiet (rural, suburban)		Quiet (suburban)		Slightly Noisy (suburban, urban)
R1 and R2	10 p.m. to 7 a.m.	40		45		50
	7 p.m. to 10 p.m.	45		50		55
	7 a.m. to 7 p.m.	50		55		60
R3 and R4	10 p.m. to 7 a.m.	45		50		55
	7 a.m. to 10 p.m.	50		55		60
Commercial	10 p.m. to 7 a.m.		55		60	
	7 a.m. to 10 p.m.		60		65	
M1	anytime		70		70	
M2	anytime		75		75	

Source: Section 8.20.190 of the BMC, Ambient base noise level

Chapter 8.20 also establishes separate noise standards for the use of sound-amplifying equipment for commercial uses², including an allowance to exceed the ambient base noise levels identified in **Table 3**. Allowances for the use of sound-amplifying equipment must comply with the following conditions³:

- Noise levels are allowed to a maximum of 15dB above base ambient noise levels.

² Chapter 8.20 also provides for the use of sound-amplifying equipment for non-commercial uses. However, for purposes of this memo, the discussion is limited to regulations applying to commercial uses.

³ In accordance with Section 8.20.080 of the BMC.

- Days of operation allowed are restricted to Monday through Saturday, except on legal holidays. No sound-amplifying equipment is permitted on Sundays.
- Hours of operation are restricted to between the hours of 9 a.m. to 8 p.m.
- The use of sound-amplifying equipment shall not be operated within a 200 foot radius from churches, schools, hospitals, or city or county buildings unless specifically authorized.
- The volume of sound shall be so controlled that it will not be unreasonably loud, raucous, jarring, disturbing, or a nuisance to reasonable persons of normal sensitiveness within the area of audibility.

In addition to the allowances for the use of sound-amplifying equipment in compliance with the conditions above, the City has the ability to permit temporary relief from all noise standards, including noise levels, days and hours of operation, through a petition of temporary relief for a period of up to 30 days, in accordance with Section 8.20.210 of the BMC.

PREVIOUSLY APPROVED USE PERMITS

The City has approved four use permits for indoor and/or outdoor live entertainment uses in the downtown area that are currently active, a majority of which were approved prior to adoption of the DMUMP in 2007. As these use permits were approved under prior regulations, all were permitted through approval of a use permit and are allowed to operate under extended hours of operation or on days not currently allowed under the conditions of Chapter 8.20 for sound-amplifying equipment⁴. Specifically, the uses are permitted to operate either past 8 p.m. or on Sundays, as summarized in **Table 4** below. All use permits are required to comply with the noise levels allowed for sound-amplifying equipment (maximum of 15dB above ambient base noise levels). These use permits are allowed to continue their operations as long as they continue to operate in compliance with the use permit conditions of approval.

Table 4. Summary of Previously Approved Use Permits

	Sailor Jack's Restaurant 123 First Street	Choice Bar 321 First Street	Rellik Tavern 726 First Street	Kinder's Meats, Deli, and BBQ 333 First Street
Original Year of Approval	1993	1995	2008	2005 ¹
Permitted Location of Live Entertainment	Indoor	Indoor	Indoor	Outdoor
Permitted Days and Hours of Operation	8 pm – 2 am , Friday, Saturday, major holidays	9 pm – 1 am, Friday, Saturday, major holidays 8:30 pm – 11:30 pm, Tuesday through Thursday, Sunday	7 pm – 10 pm, Sunday through Thursday 7 pm – 1 am, Friday, Saturday	6 pm – 9 pm, farmer's markets 1 pm – 4 pm, special events

⁴ In accordance with Section 8.20.080 of the BMC.

¹ The use permit was subsequently amended in 2011. Permitted days and hours of operation noted are reflective of these amendments.

CONSISTENCY BETWEEN REGULATORY DOCUMENTS

Citywide ambient noise levels identified in the General Plan and the BMC seem to be out of alignment currently. In general, the citywide noise regulations (Chapter 8.20) allow greater noise levels than the General Plan policies would infer. However, it is important to note that the two sets of standards are not a direct comparison based on a number of factors, as noted in **Table 5** below. The DMUMP is not addressed in the following table except where specifically noted as the DMUMP defers to the citywide noise regulations for noise standards.

Table 5. Comparison of Noise Standard Factors Between the General Plan and the Citywide Noise Regulations

Factor	General Plan Community Health and Safety Element	Citywide Noise Regulations Chapter 8.20 of the BMC
Use Categories Identified	Limited to specific noise-sensitive land uses	Expressed by zone district, not by specific land use Noted exceptions: - Citywide regulations do not currently reflect the zone districts established in the DMUMP
Community Environment	None identified	Distinguishes between rural, suburban, and urban environment with varying noise levels
Hours of Operation ¹	Daytime is 7 a.m. to 10 p.m. Nighttime is 10 p.m. to 7 a.m.	Daytime is 7 a.m. to 10 p.m. Nighttime is 10 p.m. to 7 a.m. Noted exceptions: - Citywide regulations for the R1 and R2 zone districts also specify separate noise levels for a period from 7 p.m. to 10 p.m. - The DMUMP restricts specific uses from operating past 9 p.m. regardless of noise levels
Measurement of Sound	Hourly equivalent	15-minute average
Interior/Exterior	Established both interior and exterior noise levels	No distinction between interior and exterior noise levels

¹ Hours of operation listed are for standard compliance with identified noise levels. Exceptions, such as those that may be allowed through registration for sound-amplifying equipment, are not included. However, it is noted that the hours of operation restrictions for use of sound-amplifying equipment is limited to 8 p.m.

While it isn't necessary to establish a direct relationship between the standards of the General Plan and the citywide noise regulations, some equivalency needs to be established while continuing to recognize that the scope of the standards in each document are different. However, the factors identified above

need to be considered and addressed, as appropriate, when determining consistency of the noise regulations with adopted General Plan policies.

BEST PRACTICES AND CONSIDERATIONS

Methods of reducing noise and enforcing adopted noise standards can vary dramatically depending on the type of noise, the project, and the area in which the noise is generated or received. Best practices and general considerations for noise attenuation and enforcement of noise violations are outlined below.

NOISE ATTENUATION

Noise attenuation is the reduction of noise impacts through design, construction, or placement. Methods of attenuation can vary in scope, cost, and feasibility and require case-by-case evaluation to determine the best approach for each circumstance. Following are best practice considerations in evaluating and determining appropriate noise attenuation strategies.

Identify standards for conducting noise analysis. Clear standards for how noise analysis is conducted, when required, will ensure that studies are consistently prepared and provide adequate information for evaluating noise impacts. Standards to address include:

- The method of noise measurements. Obtaining noise measurements in a format consistent with the applicable noise standards for determining compliance will allow for a direct comparison of data. This includes identifying the noise levels to be measured (e.g., A weighted), setting of measurements (e.g., slow setting), duration of measurements (e.g., 15-minute increments), and calibration methods of the equipment (e.g., verification per manufacturer's recommendations).
- The physical properties of the time and location. Take into account wind speed and direction, humidity, time of day or night, and elevation relative to neighboring properties, as all of these factors can change the way sound travels.

It is noted that Appendix I of the General Plan does provide guidance on preparation of acoustical analyses that addresses many of the items listed above. However, the requirements of Appendix I focus on acoustical analyses prepared for compliance with the performance standards of the General Plan and do not acknowledge the noise standards of the citywide noise regulations. Namely, the format for noise standards differs between these two regulatory documents – a distinction that is not currently acknowledged in Appendix I.

Noise attenuation strategies. The following methods for noise attenuation are considered best practice strategies. Specific reductions associated with identified noise attenuation is difficult to assess based on the unique character of each situation.

- Utilize barriers or sound absorption when possible. One of the more effective ways to reduce unwanted sound travel is to have barriers set up around an event site. This is not always possible due to physical characteristics, cost, or space, but can significantly reduce noise levels when used. Options may include use of walls or other solid structures and/or landscape barriers.

- Limit time and location of events. Require events to be restricted to areas that will not affect noise-sensitive uses such as homes and schools. Options for limiting the location of events may also include placement and orientation of speakers to minimize projection of noise and/or reflection of noise toward noise-sensitive uses. Limiting the time of operation so that it does not interfere with prime work or sleeping hours is a recognized strategy for minimizing noise impacts as well. The City can also limit how many events are allowed to take place in a given time frame.
- The orientation of the equipment. Changing orientation of speakers or staging can dramatically affect how noise carries beyond the event area. Speakers should be pointed downwards and inwards toward where the activity is occurring to minimize excess noise. Additionally, using multiple low-level speakers as opposed to fewer high-level speakers can reduce noise travel.

Notification to potentially impacted neighborhoods. Advance notification can greatly reduce resident frustration and complaints. This may occur at the time of adoption of noise regulations or prior to individual project approvals.

ENFORCEMENT OF NOISE VIOLATIONS

Noise regulation enforcement is done through a standard procedure for most communities in California, although many cities and counties will tailor methods to suit their own resources and characteristics. Following are best practice considerations for establishing a process for predictable enforcement strategies relative to noise violations.

Enforcement responsibility. Benicia's Police Department is the primary responder to noise issues and complaints, which allows actions to be taken at any time. Other communities may designate a Noise Control Officer (NCO), often in the Environmental or Planning Department, to respond to noise issues. However, this approach does not typically allow for timely responses to noise complaints outside of City working hours.

Clear noise standards for compliance. It is imperative to have a clear understanding of the applicable noise standards that are required to be met for the applicant as well as the review and enforcement authority. Establishing base or maximum noise levels that reflect the intent and character of the area also eliminate the need for the enforcement authority to determine the current ambient noise levels on a case-by-case basis, which can be time-consuming and is many times impractical when responding to complaints of elevated noise levels.

Establishment of internal procedures. A defined procedure for enforcing standards and responding to noise complaints will streamline processes and ensure a smooth and more amicable experience for the City, Police Department, and operator, as well as reassure residents that their concerns are being addressed. The City and Police Department should train those handling noise issues to be consistent with established procedures.

Enforcement strategy. Enforcement of noise regulations can include random or consistent monitoring at the site ("active"), or complaint-based response ("passive"). In cases of scheduled events, cities may opt to have noise measurements taken at the event site to ensure compliance with noise standards, or to rely solely on complaint-based responses to noise. With either of these methods, a verbal warning is

generally given first, followed by a written warning if the noise source is not mitigated. When relying only on complaints for warnings and citations, establishing the number of complaints necessary to issue a warning can ensure the necessity of doing so.

In most communities, violations of the noise standards are considered a misdemeanor and cumulative or escalating fines are the penalty for noncompliance. Additional penalties can include disbanding of the event, revoking of the license or permit, or confiscating the equipment used in the noise violation.

Responding to complainant. Notifying any persons filing a noise complaint that the issue is being addressed or has been resolved can facilitate good relations with the public and confidence in the City's response to concerns. A letter or phone call can be used to notify complainants and answer any lingering questions they may have regarding the event or noise complaint process. However, this also requires that the City collect complainant's contact information.

COMMUNITY COMPARISON

As the City of Benicia is in the process of updating its noise regulations, the following community comparisons were made to provide additional information for consideration in the preparation of potential amendments to the citywide noise regulations and to the DMUMP for review and processing of entertainment uses in the downtown area. In particular, this comparison will summarize how other communities within the region regulate and enforce noise standards.

The following five communities identified for comparison were selected in coordination with City staff. Factors considered in the selection process included proximity in the region, presence of a small to mid-size downtown area adjacent to residential uses, and similar size and characteristics to Benicia.

- City of Alameda <https://alamedaca.gov/community-development/planning-division>
- City Lafayette <http://www.lovelafayette.org/city-hall/city-departments/planning-building>
- City of Los Gatos www.losgatosca.gov/897/Planning
- City of Napa
http://www.cityofnapa.org/index.php?option=com_content&view=article&id=47&Itemid=294
- City of Petaluma <http://cityofpetaluma.net/cdd/planning.html>

This community comparison includes a summary of existing noise regulations, processes for evaluating entertainment uses, and enforcement practices for noise violations.

METHODOLOGY

Michael Baker staff reviewed all General Plan, municipal and zoning code, and special and specific plan regulations to identify both citywide noise regulations and noise regulations specific to entertainment uses, particularly within the downtown area, as well as enforcement practices. Phone interviews and email correspondence was used to verify the information researched in the relevant regulatory documents.

NOISE REGULATIONS

While the General Plan outlines ambient noise levels (as a maximum or a range) for sensitive receptors (e.g., residential, civic uses) the municipal code typically identifies ambient noise levels for each land use type. Therefore, the municipal code was used as the primary source of information for this research effort. The municipal code is also the primary regulatory document for outlining any special permit processes related to allowances for intrusion from standard noise regulations or for special permit process related to entertainment uses.

Table 6 summarizes citywide noise regulations across each of the comparison communities, including standard daytime/nighttime hours, ambient noise levels by land use type, any allowances (whether for on-going uses or for temporary uses) from the identified ambient noise levels, and if there is a special permit process for on-going or temporary uses. Standards for noise hours of operation related to special permit processes are also identified, where applicable.

Table 6. Average Hours, Levels, and Allowances for Noise

#	Jurisdiction	Hours Defined	Ambient Noise Levels (Residential and Commercial) ¹	Allowance for Intrusion for Sensitive Receptors	Process and/or Permits Required for Entertainment Uses	Primary Regulatory Document(s)
-	City of Benicia (pop. 26,000)	Daytime 7 am – 10 pm Nighttime 10 pm – 7am	Residential Daytime: 50 – 60 dB <i>Note:</i> Ambient noise levels are 45 – 55 dB in the R1 and R2 districts between 7 pm and 10 pm Nighttime: 40 – 55 dB Commercial Daytime: 60 – 65 dB Nighttime: 55 – 60 dB	For stationary noise sources: up to 3dB above ambient; For temporary uses or special events: up to 15dB above ambient	On-going Uses No process <i>Exception:</i> Use permit has previously been used for live entertainment uses. Temporary Uses Yes. Amplified sound registration allows temporary noise intrusions. <i>Note:</i> Hours are limited for temporary noise intrusions to between 9 am and 8 pm, with no allowance on Sundays	Chapter 8.20 of the Benicia Municipal Code.

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#	Jurisdiction	Hours Defined	Ambient Noise Levels (Residential and Commercial) ¹	Allowance for Intrusion for Sensitive Receptors	Process and/or Permits Required for Entertainment Uses	Primary Regulatory Document(s)
1	City of Alameda (pop. 78,000)	Daytime 7 am – 10 pm Nighttime 10 pm – 7am	Residential Daytime: 55 dB Nighttime: 50dB Commercial Daytime: 65dB Nighttime: 60 dB	Sliding scale for intrusions: 5 dB increase over ambient allowed for 30 minutes maximum; More than 5 dB – 10 dB increase over ambient for 15 minutes maximum; More than 10 dB increase over ambient for 1 minute maximum	On-going Uses No process <i>Exception:</i> Use permits are used to allow live entertainment at bars and nightclubs. Temporary Uses None specified	Chapter 4-10 of the Alameda Municipal Code Section 4-10.5.b (Specific Prohibitions) Section 4-10.9 (Noise Reduction)
2	City of Lafayette (pop. 25,199)	Daytime 7 am – 10 pm Nighttime 10 pm – 7am	Residential Daytime: 55 – 65 dB Nighttime: 45 – 55 dB <i>Note:</i> Includes civic uses Commercial Daytime: 65 – 70 dB Nighttime: 55 – 60 dB	None stated	On-going Uses No process <i>Note:</i> Standard permit and entitlement process is used for review of proposed primary uses. Temporary Uses None specified	Chapter 5-2 (Noise) of the Lafayette Municipal Code
3	City of Los Gatos (pop. 30,545)	Daytime 8 am – 10 pm Nighttime 10 pm – 8am	Residential 50 – 60 dB Commercial 60 – 65 dB	For single family residential: No disturbance greater than 6dB over ambient noise levels is allowed. For commercial: No disturbance greater than 8 dB over ambient noise levels is allowed.	On-going Uses No process Temporary Uses Yes. An exception process does allow for allowances over the identified noise limits, which may be permitted for up to 6 months.	Chapter 16 (Noise) of the Los Gatos Municipal Code for Noise. Section 16.20.010 (Amplified sound regulations)

#	Jurisdiction	Hours Defined	Ambient Noise Levels (Residential and Commercial) ¹	Allowance for Intrusion for Sensitive Receptors	Process and/or Permits Required for Entertainment Uses	Primary Regulatory Document(s)
4	City of Napa (pop. 80,000)	Daytime 7 am – 9 pm Nighttime 9pm – 7am	Residential < 60dB Commercial < 70 dB	No allowances identified. <i>Note:</i> Minor increases are not strictly enforced if no complaint is filed. For temporary uses or special events in the entertainment district (downtown): maximum of 67 dB allowed at property line	On-going Uses No process Temporary Uses Yes. Amplified sound registration allows temporary noise intrusions. City Manager and Police review amplified sound permit <i>Note:</i> Special standards for hours for temporary noise intrusions in the entertainment district (downtown).	Section 8.08.020.B of the Napa Municipal Code

#	Jurisdiction	Hours Defined	Ambient Noise Levels (Residential and Commercial) ¹	Allowance for Intrusion for Sensitive Receptors	Process and/or Permits Required for Entertainment Uses	Primary Regulatory Document(s)
5	City of Petaluma (pop. 58,000)	<p>Daytime 7 am to 10 pm, Mon – Fri; 8 am to 10 pm, Sat, Sun and Holidays</p> <p>Nighttime 10 pm to 7 am, Mon – Fri; 10 pm to 8 am, Sat, Sun, and Holidays</p>	<p>All Uses 60dB</p>	<p>Sliding scale for intrusions:</p> <p>Daytime 5 dB increase over ambient allowed for 15 minutes in one hour; 10 dB increase over ambient allowed for 5 minutes in one hour; 15 dB increase over ambient allowed for 1 minute in one hour</p> <p>Nighttime 10 dB increase over ambient allowed for 15 minutes in one hour; 15 dB increase over ambient allowed for 5 minutes in one hour; 20 dB increase over ambient allowed for 1 minute in one hour</p>	<p>On-going Uses No process</p> <p>Temporary Uses Yes. An exception process does allow for allowances over the identified noise limits, which may be permitted for up to 6 months.</p>	Chapter 21 (Performance Standards) of the Implementing Zoning Ordinance

¹ Land use types may have been consolidated to facilitate a like comparison across communities. Research was focused on residential and commercial uses only.

Summary Comparison

Most of the daytime and nighttime standards were similar across each comparison community with residential uses required to maintain ambient levels around 50-60 dB for daytime hours and 45-55 dB for nighttime hours. Ambient noise levels for commercial uses were allowed on average to be 5-10 dB greater than residential ambient noise levels. Temporary increases are allowed over these ambient noise levels but these allowances varied widely across the comparison community ranging from 3 dB to 20 dB, depending on the duration of intrusion.

Most of the communities did have some permitting process for allowing temporary uses to exceed the noise levels though the duration of time, special standards for operation, and limits on the maximum noise levels allowed varied widely. None of the communities had a permit process for on-going uses that allowed increases above and beyond the noise standards (levels, days, hours) permitted through the temporary permit process. However, this did not preclude communities from approving live entertainment uses. These uses would either be approved on a temporary basis, which would allow some exceptions to the noise standards, or on a permanent basis through the standard permitting process (e.g., use permit), which would require compliance with the identified base ambient noise levels.

ENFORCEMENT PRACTICES

Research conducted relative to enforcement of noise violations was gathered primarily via phone interviews and email correspondence. The following questions were asked of each of the comparison communities:

- How are violations determined? Is it based on a set noise level (e.g., no greater than 65dB) or is it a variable noise level (e.g., no more than 5dB above baseline)?
- Is there a specific procedure for noise violations or are they enforced through the standard administrative citation process?
- What department is responsible for regulating violations?
- Does the jurisdiction participate in active noise enforcement or is it complaint based?
- What are the penalties for noise violations? Warnings, administrative citations, immediate fines, halting the event, revocation of permit, confiscation of equipment? Others? Is enforcement primarily for entertainment uses?
- What follow-up is there with a complainant? Does the jurisdiction take anonymous complaints?

Not all questions were answered by each jurisdiction. Following is a narrative summary of the responses received from each of the comparison communities.

City of Alameda

No response was received from staff through attempts at direct contact via phone or email. The source of the following summary is the Alameda Municipal Code and website.

- The applicable noise standards are adjusted if the average ambient noise level for an area is greater than the prescribed standard.
- If the intruding noise source cannot be mitigated, the noise level measured while the source is in operation shall be compared directly to the applicable noise level standards.
- A complaint must be filed with the planning department or the public works department for staff review.
- If the impact is not significant and not a health hazard to the complainant, staff will not process the complaint but will help, if possible, to work out a solution.
- If the complaint is dismissed by staff then a formal *Intent Not to Process a Complaint* is completed by staff and filed with the City Clerk and provided to the noise source recipient. This action is subject to appeal.

- Any violation is an infraction and each day the violation is continued constitutes a separate offense and can be punishable as such.
- The operation or maintenance of any device that causes a noise disturbance can also be deemed a public nuisance and may be subject to abatement by a restraining order or injunction issued by a court of competent jurisdiction.

City of Lafayette

No response was received from staff through attempts at direct contact via phone or email. The source of the following summary is the Alameda Municipal Code and website.

- Noise is measured by the noise control officer at the property line and if a violation is found, the officer records the type of noise and violation.
- This is to take into account on a weighted scale for temporary intrusions.
- Violators are generally given a formal warning and the ability to correct the violation. Some exceptions are granted should the applicant indicate all possible methods to reduce noise intrusion have been exhausted.
- Temporary allowances are granted for up to 6 months through formal action; however this may be appealed to the City Council by either the applicant, officer, or opponent.

City of Los Gatos

The following information was gathered through conversation with Allen Meyer, Code Compliance Officer.

- Per LGMC16.20.070, the Town Manager, or designee, is responsible for enforcement as the first step is to issue a written warning notice that a violation has occurred and the potential penalties that will apply for future violations.
- The violation is an infraction with a fine maximum of \$500.00.
- If the applicant can show available noise abatement techniques would be impractical or unreasonable, a permit to allow exception of the municipal code requirements can be granted, with appropriate conditions to minimize the public detriment caused by such exceptions.
- Any such permit shall be of as short of a duration as possible up to six (6) months, but renewable upon a showing of good cause, and shall be conditioned by a schedule for compliance and details of methods in appropriate cases.
- Noise is measured at the property line as small allowances are granted for temporary intrusions.
- No permit is required for uses that fall within the standards, but projects (entitlements) with specific noise conditions are monitored. Conditions may include barrier improvements, limited hours of operation, limited events, and other items required to offset noise impacts.
- The Town Manager will work with Planning and other staff to ensure conditions are maintained.

City of Napa

The following information was gathered through conversation with Karlo Felix, Senior Planner.

- Noise generated by a use should not be heard at the property line.

- The Planning Department generally gets involved during the development review process (see NMC Section 17.52.310) and is not involved in on-going operations.
- The City's Code Enforcement Division manages complaints related to construction noise as all other noise complaints are managed through the Police Department and are complaint driven.
- For operations that had an associated entitlement (such as an entertainment use), a warning is issued before sending out a formal compliance order through our Code Enforcement Division.
- If compliance isn't reached then the City pursues other remedies (new conditions, revocation procedures, fines, etc.); however, staff is unaware of an issue getting this far.
- The Code Enforcement Division does not take anonymous complaints (except for life safety issues) as all complaint information is kept confidential.

City of Petaluma

The following information was gathered through conversation with Joe Garcia, Neighborhood Preservation Coordinator.

- Violations are determined based on noise levels over time (see Table 21.1 of the zoning code).
- The noise ordinance exempts numerous activities from these standards during the day as the majority of the regulations are for commercial activities.
- City patrol staff addresses disturbing of the peace violations with the occasional loud hot tub equipment complaint or industrial noise generated from condensers, fans, and other machinery.
- They have one operator in town (Lagunitas Brewing) that conducts mid-week concerts as the City worked with the owner to get their noise levels to an acceptable range, even hiring a noise consultant to bring them into compliance.
- The City responds to complaints and does not enforce noise regulations proactively.
- If a violation is confirmed, a corrections notice is sent out. If compliance is not achieved, the City will issue administrative citations (\$100, \$500, \$1,000). After the third citation, the City will move up to a notice and order and seek an abatement order plus civil penalties. If an event is a permitted event, they have the ability to cancel the event due to non-compliance and have the final option for filing a criminal complaint on any violations, as they are considered misdemeanors.
- The City does not accept anonymous complaints. If a complainant requests follow-up, the City does their best to keep them updated.

Summary Comparison

A majority of the comparison communities indicated that the enforcement of noise is typically the code enforcement department; however, some have indicated the Fire and Police departments are usually involved for non-zoning code noise violations that originate from complaints not associated with approved projects (e.g., use and event permits). As many complaints are filed during non-traditional working hours, the Fire and Police Departments are typically called to assist as their staff is usually on-call more than other City department staff. Issues can arise as these departments will sometimes not respond to non-life threatening issues like noise complaints. Most activities do not require a permit for noise emitting activities; however, noise is regulated through administrative

permit review and entitlement approval as Fire and Police will rely on assistance from the Planning Department for condition compliance.

Most communities indicated that they will not typically respond to anonymous complaints unless multiple complaints are received and/or staff is in the immediate area. All formal complaints remain confidential. Most of the measurements for noise are taken at the property line or shared wall; however, some communities allowed for multiple readings in areas with varying noise sources and higher than average ambient levels.

The communities did not respond with information related to specific noise permits as most noise emitting sources do not require a special permit but are rather regulated through general compliance with the noise regulations or are reviewed through the standard entitlement review process.

CONSIDERATIONS FOR DISCUSSION

Working within the parameters established by the General Plan, the following considerations for amending the citywide noise regulations (Chapter 8.20 of the BMC) and the DMUMP should be further discussed.

UPDATES TO THE CITYWIDE NOISE REGULATIONS

- Update the citywide noise regulations to establish either base ambient noise levels or maximum ambient noise levels by zone district.
- Updates may also include a transition away from a zone district based approach toward a use based approach. However, assuming zone districts remained the preferred reference point, updates should include:
 - Identifying the current City zone districts as adopted in Title 17 (Zoning).
 - Identifying the DMUMP zone districts in Chapter 8.20 or, at a minimum, identifying their equivalent citywide zone district so the application of noise standards is clearly defined for the downtown area.
- Ambient noise levels should be informed by the performance standards of the General Plan for noise-sensitive uses. This includes establishing some equivalency between the uses identified in the General Plan and the zone districts identified in the noise regulations as well as the methods of noise measurement between the documents (hourly equivalent versus 15-minute average).
- Review noise standards (levels, days, and hours) and align each across all regulatory documents, as appropriate, to maintain consistency.
- Clarify whether the noise levels identified in the citywide noise regulations are for interior or exterior noise levels.
- Understanding it is the intention of the City to continue to allow exceptions to the noise standards for certain uses and/or events, evaluate the current exceptions processes (e.g., sound-amplifying equipment registration and temporary relief petition) and review for clarity. Update each process to reflect the City's current practice and intent and applicability for allowed exceptions.

UPDATES TO THE DMUMP

- Establish a process for reviewing entertainment use requests within the DMUMP. This may include establishing set standards for compliance should the City wish to facilitate the approval of such uses or include establishing some level of discretionary permit process. Ease of enforcement of noise violations should be considered when determining the appropriate level of review. This may include retaining discretion over the permitting process.