



Item No. {{item.number}}
Town of Atherton

CITY COUNCIL STAFF REPORT – REGULAR AGENDA

**TO: HONORABLE MAYOR AND CITY COUNCIL
GEORGE RODERICKS, CITY MANAGER**

FROM: STEVEN D. MCCULLEY, POLICE CHIEF

DATE: NOVEMBER 16, 2022

**SUBJECT: AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF
ATHERTON AMENDING CHAPTER 8.16 (NOISE CONTROL) OF
THE ATHERTON MUNICIPAL CODE.**

RECOMMENDATION

Consider amendments to the Town's Noise Control Ordinance, Chapter 8.16 and direct staff to return the Ordinance for Public Hearing and Introduction at the December 21 Council Meeting.

BACKGROUND

The Atherton community has a long history of social gatherings on private property and to this day, property owners will often host large events at their property with live music, DJ's, tents, valet parking, and more. Large and small gatherings do have the potential to create noise levels which can be a nuisance and may cause a negative impact to our residents' daily lives.

The current Atherton Municipal Noise Control Ordinance (Chapter 8.16) has been in place since 1999. The Noise Control Ordinance provides very specific guidelines for allowed noise levels, exceptions to established noise levels, and enforcement of noise ordinance violations.

In July 2022, an Atherton resident sent an email to Council members describing ongoing noise violation incidents involving their neighbor, highlighting a specific social gathering in June of 2022. In the email, the resident also made suggestions and recommendations for changes to the current noise control ordinance.

On October 5, 2022, at the Council Study Session meeting, Council received public comment on the current noise control ordinance, discussed possible amendments to the current ordinance and provided direction to staff.

ANALYSIS

As a result of the October 5, 2022, Council Study Session, the requested amendments to the current noise control ordinance include:

- 8.16.020 Definitions, add a definition of a “Social Gathering.”

“Social Gathering” means a gathering at a residential unit or other private premises, including but not limited to Accessory Dwelling Units, of 10 or more persons who have assembled from different households for social or other community activities.

- 8.16.050 Special provisions and exceptions, changes to the “Social Gathering” noise level exceptions.

The noise from social gatherings may exceed the basic noise regulation as specified below during the following days and times. Noise shall be measured from any adjacent residential property.

- Fridays, Saturdays, and Holidays, 10 am to 10 pm - noise shall not exceed 75 dBA
- Fridays and Saturdays, 10 pm to midnight - noise shall not exceed 70 dBA
- Sundays, 10 to 8 pm - noise shall not exceed 75 dBA

- Delete 8.16.070 (A) & (B), Permit to Exceed Noise Level.
- 8.16.090 Violations, removed.
- 8.16.080 Violations, added.

A. Upon the receipt of a complaint from any person, the chief of police or his or her designee may investigate and assess whether the alleged noise levels exceed the noise standards set forth in this Chapter. If such officer(s) have reason to believe that any provision(s) of this chapter has been violated, they may cause written notice to be served upon the alleged violator. Such notice shall specify the provision(s) of this chapter alleged to have been violated and the facts alleged to constitute a violation, including dBA readings noted and the time and place of their detection and may include an order that corrective action be taken within a specified time. If corrective action is not taken within such specified time, upon conviction the violation shall constitute a misdemeanor. For every fifteen minutes that the noise exceeds the thresholds allowed in this Chapter, and after the written notice by the officer(s), each following fifteen minutes that the noise continues shall constitute a separate offense and shall be punishable as a misdemeanor.

B. Notwithstanding any contrary provision of this code, each fifteen (15) minute period that a violation of this Chapter occurs shall constitute a separate violation. The administrative penalty for each violation shall be one thousand dollars (\$1,000.00).

- 8.16.100 Penalties, added.

A. When a Social Gathering occurs at a premise and a police officer at the scene determines that there is a violation of this Chapter, the person(s) in charge of the premises and the person(s) responsible for the event, or if any of those persons are minors, then the parent(s) or guardian(s) of those minors will be held jointly and severally liable for the cost of providing police personnel

on special security assignment over and above the services normally provided by the department to respond to such events. First time violators will be warned; upon subsequent violations of the provisions of this chapter, the police personnel utilized during a second response after the first warning to control the threat to the public peace, health, safety or general welfare shall be deemed to be on special security assignment over and above the services normally provided.

B. No fee shall be assessed unless a written warning has been issued by police personnel during the first response.

C. The expense of services provided by special security assignment officers shall be charged against the property owner and/or person liable for the expenses under this section. The charge constitutes a debt of that property owner and person to the city, jointly and severally, and is collectible by said city in the same manner as in the case of an obligation under a contract, express or implied.

FISCAL IMPACT

None.

GOAL ALIGNMENT

This Report and its contents are in alignment with the following Council Policy Goals:

- Goal Area B – Preserve Small Town Character and Quality of Life

POLICY FOCUS

The recommendations presented in this report are consistent with Town policies.

PUBLIC NOTICE

Public notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting in print and electronically. Information about the project is also disseminated via the Town's electronic News Flash and Atherton Online. There are approximately 1,200 subscribers to the Town's electronic News Flash publications. Subscribers include residents as well as stakeholders –to include, but be not limited to, media outlets, school districts, Menlo Park Fire Protection District, service providers (water, power, and sewer), and regional elected officials.

COMMISSION/COMMITTEE FEEDBACK/REFERRAL

This item has not been before a Town Committee or Commission

ATTACHMENTS

1. Amended Municipal Code Noise Control Ordinance (Chapter 8.16)