

SPECIAL COUNCIL MEETING
WALLACE, IDAHO
May 1, 2024

Council President, Michele Bisconer, called the meeting to order at 4:05 p.m. in the council chamber.

Roll Call: Council members present: Elmer Mattila, Cindy Lien, Michele Bisconer and Dean Cooper. Council members absent: Rich Matrisciano and Rick Shaffer.

Flag Salute

Presentation of FY 22/23 Audit – Magnuson, McHugh, Dougherty CPAs (*Action Item*) – The 22/23 audit report was presented by Korby Baker, Senior Auditor. Council member Bisconer made a motion to accept the audit. Seconded by council member Mattila. Roll Call. Mattila Aye; Cindy Lien Aye; Bisconer Aye; and Dean Cooper. Carried.

Workshop/Public Hearing for - 2024-01 THIS ORDINANCE PROVIDES FOR THE PURPOSE AND DEFINITIONS; PLACES LIMITATIONS ON NOISE PRODUCTION; REGULATES SOUND REPRODUCTION DEVICES AND SIGNALING DEVICES; PLACES CONSTRAINTS ON THE TIME THAT CONSTRUCTION ACTIVITIES MAY OCCUR; LIMITS NOISE GENERATED BY MUFFLERS, AIR COMPRESSION BRAKES, AND ANIMALS; OUTLINES EXCEPTIONS AS WELL AS SPECIAL VARIANCES AND EMERGENCY EXEMPTIONS; EXEMPTS ACTIVITIES WITHIN HEAVY MANUFACTURING DISTRICTS; ESTABLISHES CIVIL AND CRIMINAL PENALTIES FOR VIOLATIONS; PROVIDES FOR SEVERABILITY; REPEALS CONFLICTING ORDINANCES; AND SETS AN EFFECTIVE DATE UPON PASSAGE AND PUBLICATION. (*Action Item*) – Council member Bisconer stated the sheriff’s department has requested the city put an ordinance in place due to an increase in disturbance calls mainly in the residential areas. Council member Bisconer noted that last month there were eight calls. The sheriff’s office “needs a tool” and it’s the council responsibility to provide this. Council member Bisconer stated the city had received some letters in response to this agenda item. Council member Lien read the letter submitted by Siobhan Curet. The letter is attached hereto as Exhibit A. Council member Cooper read the letter submitted by Greg Bosen. The letter is attached hereto as Exhibit B. Council member Bisconer read the letter submitted by Leigh Ligenza. The letter is attached hereto as Exhibit C. Council member Bisconer read the email submitted by council member Rick Shaffer. The email is attached hereto as Exhibit D. Council member Bisconer listed the issues that need to be discussed which are: how the bars are affected, town festivals, penalties/fines and how to measure the 70 decibels. Council member Cooper stated the prima facie component is also an issue.

Festivals – In section 94.10 “Exceptions”, festivals are exempt. Rob Wuerfel asked if festivals can only have noise until 10:00 PM? Council member Cooper stated festivals are exempt from the entire noise ordinance. James McMillian asked if the Elk’s shirt tailing would be prohibited from this ordinance? Council member Bisconer stated the group could apply for the special variance, or come before council to get their approval. Kimberly Fischer suggested that certain events be allowed to apply once and be given a blanket approval. Council member Bisconer stated that was a good idea. Barbara Strother asked what’s the lead time for getting an application submitted? Council member Bisconer replied that the

application should be submitted to the council a month before the event is going to happen. Ms. Strother stated that some last-minute opportunities for the bars may be lost, because of this process.

Downtown District – Council member Bisconer said the council has clearly heard what the business district wants. She asked each council member to state their thoughts/opinion. Council member Mattila stated in his time on the council, he has not seen any outpouring like this on any item, so obviously it's a concern. The quiet hours will not work for the business district, and will need adjusted. Council member Lien stated the business district should be excluded. Council member Cooper stated his preference would be to exclude the business district. Council member Bisconer has no issue with putting the businesses on the excluded list. Ben Allen, city attorney, suggested placing the exclusion of businesses under 94.13. Dick Caron asked council member Lien is she asked the residents that live above the business their thoughts? She stated she did not have time. Jocelyn Bachman said 27 signatures on the petition to vote no reside in the commercial district. Mr. Caron said he has more problem with bar noise than festivals, and there should be a time limit on the outdoor music. Council member Bisconer stated she read through noise ordinance from various cities and they did not exclude the downtown area. Leigh Ligenza stated that Wallace is not like any other town. Council member Bisconer replied that the demographics are changing. The town is seeing more tourist visitors and there does not seem to be a balance with community members. Jeremy Watterson asked if council member Bisconer was talking about short term rental or noise? She clarified noise. James McMillian asked if this ordinance is being created to address incidents in the residential area, why was the commercial district included to begin with? Susan Berry asked if the sheriff's office provided any document or formal request to the city? Anna Berger asked what power this ordinance would give the sheriff's office? Mr. Allen stated the disturbing the peace statute under Idaho Code is very difficult to enforce. He stated he knows of two instances where law enforcement responded to a noise complaint, attempted to cite the individual under the county's noise ordinance, which you cannot do. Kimberly Fischer stated the ordinance needs to be enforceable. Ashlee Myles stated "we are a community and we need to work together and stop making laws and consequences for everything..." Ronikae Stephens stated she manages an apartment building on Bank and the police have been called there for domestic violence issues, and she is grateful they responded. She also deals with noise complaints on her own, by letting people know they will be evicted if they don't comply. She thanked the council for having this conversation. Rob Wuerfel stated he has visited many ski areas and small towns and towns like Wallace, and has enjoy the night life, and 10:00 PM is hyper restrictive. People will not want to come back, if the town is shut down by 10:00 PM. Kathy Zanetti stated the activities such as seniors honking their horns and the bell ringing at St. Alphonsus have enough led time to come in and get a permit. She stated open communication and a "good old fashion town hall meeting" is a better avenue than "here is an ordinance....like it or don't like it". Further comments and discussion. Mr. Allen stated based on the quasi motion from the council, it would be best to take 94.13 and retitle it "Specific District Exclusions" and then separate out manufacturing district and business district.

Measurement of Decibels – Council member Bisconer stated the other ordinances she looked at referenced 50-60. Discussion regarding 94.02 Definition (B)(3). Luanne Wuerfel stated houses are like 10' apart. It seems like most complaints are about dogs, so maybe that should be addressed under another section. She wondered if this ordinance is even needed. Emma Marlow said with any law there is always discretionary levels, so none of this is going to be universally applicable. Leigh Ligenza said "this is very stringent...all of it is." Discussion on targeting ATVs. Council member Bisconer said there needs to be some sort of benchmarks, but they are hard to measure. Someone from the audience stated the federal government is uses 84 decibels. Discussion again why this ordinance is necessary. This was addressed by

Mr. Allen. Calls for service are coming into the sheriff's office and nothing can be done. Further discussion held. Council member Cooper stated he liked the suggestion of using 84 decibels.

Penalties – Council member Cooper asked if a warning could be added? Mr. Allen stated it could but he feels it “hamstrings” law enforcement. He thinks people will not initially comply because they know they have a warning. Discussion held on what the penalty phase looks like. Council member Cooper read the portion of the code that state “...property owner or occupant of the property from which the noise originates and/or the individual responsible for creating the noise violation. Some business owners stated they had concerns with this section. Mr. Allen stated in order for a property owner to be held criminally there has to be this element of liability where that the owner was aware, encouraging it or neglecting to address it. Further discussion held on levels of discretion in a case, how charges are assessed against an individual and/or a property owner and the amount of fines. Jocelyn Bachman stated she would like jail time stricken from the ordinance. Council member Bisconer stated the changes would be ready by the June meeting.

Michele Bisconer, Pro Tem

ATTEST:



Kristina Larson
City Clerk/Treasurer

Wallace City Council
Ordinance No. 2024-01 Draft 4
April 30, 2024

Dear Wallace City Council,

I am writing to express my concerns regarding the proposed noise ordinance currently under consideration by the Wallace City Council. I am not opposed to a noise ordinance outright, but as a resident of Wallace, I am concerned that this ordinance does not reflect the needs and concerns of all citizens and business owners.

My primary concerns are as follow:

- The fines outlined in the proposed ordinance are disproportionate and excessive, with no warning structure in place. Imposing such heavy penalties without providing any leeway or consideration for unintentional violations and/or warnings is extremely concerning to me. Without provisions for warnings or a clear framework for enforcement, these fines appear arbitrary and punitive rather than constructive.
- I strongly suggest that the fines be reduced to more reasonable levels (\$50 first offense and \$150 second offense) and that written warnings be given for first-time offenders. I also believe that jail time should be removed as a potential penalty, as this seems extreme for noise disturbance. In addition, our jail is overburdened and a community service punishment approach would seem more reasonable in the event of repeat/egregious violations. This approach would not only promote greater fairness and understanding among residents but also foster a more collaborative relationship between the community and law enforcement.
- Additionally, I believe it is important to consider exemptions for the business/commercial district until 2 AM, as our community depends on tourism and nightlife for much of our revenue. Businesses in this area often operate later into the night, and imposing strict noise regulations could unnecessarily burden their operations.

I encourage the City Council to take these concerns into account and revise the proposed ordinance accordingly. It is crucial that any legislation enacted truly reflects the needs and interests of all members of the Wallace community. I appreciate the work that the Council does, and appreciate the opportunity to provide input for your consideration.

Sincerely,

Siobhan Curet
823 Residence St.
Wallace, ID 83873



Greg Bosen
412 River St.
Wallace, ID 83873
greg.bosen@gmail.com
4/30/2024

City Council of Wallace
Wallace, ID 83873

Dear Mayor Mogensen and Members of the City Council,

I am writing to express my concerns regarding the proposed Ordinance No. 2024-01, which pertains to noise regulation within our community. While maintaining peace and order is undoubtedly a priority for our town, the specifics of the proposed ordinance suggest a potentially restrictive and costly path that may not align with the best interests of our community members.

Firstly, the ordinance introduces a stringent definition of noise disturbances and plainly audible sound that could be too restrictive for everyday activities, especially considering Wallace's identity as a festival town. Section §94.02 defines a noise disturbance as any sound that "may disturb or annoy reasonable persons of normal sensitivities," a standard which seems overly broad and subjective. This could lead to numerous interpretations and potentially unfair enforcement.

Additionally, the decibel restrictions set forth in §94.03 could impact various community events that contribute to the cultural and economic vitality of Wallace. The proposed restrictions on sound reproduction devices (§94.04) and their use during events could significantly hinder our town's vibrant social scene, especially concerning given that music and public gatherings are integral to our local festivals.

It is also concerning that the ordinance allows the City Council to issue special variances as outlined in §94.11. While this provision offers flexibility, it also introduces a layer of uncertainty and discretion that could lead to perceived biases in enforcement. The potential for such variances to be granted or denied could foster a sense of inequality among residents and businesses, depending on who receives exemptions and who does not.

The penalties outlined in §94.14 for violations of the ordinance are severe, ranging from substantial fines to possible jail time for repeated offenses. This level of punishment seems disproportionate, especially given the relatively low number of noise complaints reported in our community. It suggests a punitive approach to an issue that may be more effectively addressed through community engagement and mediation.

Furthermore, the administrative and financial burden of enforcing this ordinance, including monitoring noise levels, processing variance requests, and pursuing civil and criminal penalties, will likely require significant resources. These resources could be more effectively allocated towards initiatives that directly enhance community welfare and economic development.



Given the low incidence of noise complaints and the effectiveness of existing laws that address disturbances, this proposed ordinance seems to be an unnecessary layer of bureaucracy. Our town thrives on its unique character and the autonomy of its residents. Implementing such stringent regulations could stifle the very essence of what makes Wallace a wonderful place to live and visit.

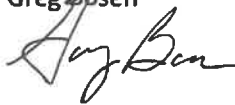
In conclusion, I respectfully urge the City Council to consider the potential negative impacts of this ordinance on Wallace's community life and economy. I recommend voting against the passage of Ordinance No. 2024-01 and suggest that the Council instead focuses on strengthening the community through dialogue and existing legal frameworks.

Given the significance of this matter, I kindly request that this letter be read at all workshops and public hearings related to Ordinance No. 2024-01. It is crucial that the voices of the community members are heard and considered in the decision-making process. Ensuring transparency and community involvement will help maintain trust and ensure that all perspectives are adequately represented in our governance.

Thank you for considering my views. I trust that you will make a decision that preserves the vibrant and free-spirited nature of our town.

Sincerely,

Greg Bosen

A handwritten signature in black ink, appearing to read "Greg Bosen", written in a cursive style.

April 30, 2024

To: City Council Members

Re: Proposed Noise Ordinance

Thank you for reconsidering this ordinance and letting the residents give more feedback. This entire ordinance is unnecessary.

94.01 Purpose states the following: "It is determined that excessive sound can and does constitute a hazard to the health, safety, welfare and quality of life of the residents of the city."

Who determined that the residents of Wallace are in danger of excessive sound?

Were any professional studies conducted that prove the welfare and safety of Wallace residents is or should be a concern?

Were any medical studies conducted that show adverse health effects to Wallace citizens because of excessive sound?

Did City Council or any other entity or agent for the City provide a questionnaire to the residents for feedback to conclude that their quality of life was lacking?

In my opinion, if the city cannot answer these questions, provide factual studies or at the very least; a valid and equitable questionnaire from the residents, all of this should be voted down.

City Council members are our representatives.

It's important to listen to the concerns of the community, but implementing any new laws, rules or regulations should always be based in facts.

If the city does have a factual basis for Ordinance NO 2024-01, I request it be released to the residents before any more resources are wasted trying to pass this ordinance.

Let the residents of Wallace speak for themselves and trust that we know what's best for us. Trust that neighbors can usually settle their own disputes and if not, even without this ordinance, the courts already have this covered.

I believe that over regulation and fear of regulation is stress inducing.

I know that I am a busy person, and I am having to put things on hold to write this letter in the hopes that our city council will truly listen to this point of view and vote no to this ordinance. I'm hoping that members see how damaging it is to a community when you back them into a corner of heavy-handed laws.

Leigh Ligenza-Oasis Museum Operator



kristina.larson@wallace.id.gov

From: rick@thewallaceinn.com
Sent: Tuesday, April 30, 2024 11:17 AM
To: 'Kristina Larson'
Subject: Noise

Hi
Council member Shaffer regrets not being able to make the noise workshop.

Supports the noise ordinance as written.

For the benefit of the Wallace residents and guests it should not exclude the downtown business district.

Exterior amplified noise after 10p is not needed exclusive of permitted occasions ie festivals, etc.

Thank you.

Ras
PM
4-30-24

