



**Date of Council Meeting:** May 10, 2016

**TOWN OF LEESBURG  
TOWN COUNCIL MEETING**

**Subject:** TLOA-2016-0004, Standards for Specific Uses, Fair in the R-1 Zoning District, Zoning Ordinance Text Amendment.

**Staff Contact:** Scott E. Parker, AICP, Assistant Town Manager

**Council Action Requested:** Approval of TLOA-2016-0004 to amend Zoning Ordinance Section 9.5.4.D, Fair in the R-1 District, permitting sound amplification for outdoor activities until 8:00 pm to provide consistency with the Town Code.

**Staff Recommendation:** Approval of TLOA-2016-0004 to amend Zoning Ordinance Section 9.5.4.D, Fair in the R-1 District, permitting sound amplification for outdoor activities until 8:00 pm to provide consistency with the Town Code. (See attachment #1 for draft ordinance).

**Commission Recommendation:** On April 21, 2016, the Planning Commission recommended approval of TLOA-2016-0004 by a vote of 7-0-0. There were no recommended changes.

**Fiscal Impact:** Approval of TLOA-2016-0004 may generate minimal additional business tax revenue for the Town.

**Work Plan Impact:** None. Processing of these types of applications is part of the core function of the Department of Planning and Zoning.

**Executive Summary:** On March 8, 2016, the Town Council unanimously approved Resolution No. 2016-041(Attachment 2) to initiate Zoning Ordinance text amendments in order to change the allowable time that outdoor performances and amplified music are allowed as part of a Fair within R-1 (single family, low density residential) zoning districts. The purpose of the change is to create consistency between the Zoning Ordinance and Town Code Chapter 24. The specific amendments related to 9.5.4.D are:

1. Amend Section 9.5.4.D.5, Outdoor Performance, to permit outdoor performances up to 8:00 p.m.
2. Amend Section 9.5.4.D.7, Hours of Operation, to clarify that any performance activity from 8:00 pm to 11:00 pm must be in a fully enclosed building.
3. Amend Section 9.5.4.D.8, Noise, to permit the use of unenclosed mechanical equipment outdoors up to 8:00 p.m. to be consistent with the Town Code.
4. Amend Section 9.5.4.D.9, Sound Amplifying Equipment, to permit the use of sound amplifying equipment up to 8:00 pm to be consistent with the Town Code.

**Background:** The Town of Leesburg’s current Zoning Ordinance regulations within Section 9.5.4. addresses standards for specific temporary activities such as carnivals, circuses, festivals, fairs, dog shows, and other similar uses. Section 9.5.4.D provides specific standards for fairs in the R-1 District stating that the use of sound amplification equipment shall not extend past 7:00 pm as part of the permitting process for a fair. However, the Town’s noise ordinance as outlined within Chapter 24, Article V, Offenses against Public Peace and Order, states that the use of sound amplification equipment shall not extend past 8:00 pm. Since Chapter 24 is referenced in the Zoning Ordinance, the provisions of the Town Code and the Zoning Ordinance conflict.

There are three sections of 9.5.4.D, Fair in the R-1 District, that are being proposed for a change from 7:00 pm to 8:00 pm to create consistency between the Town Code and the Zoning Ordinance:

- Section 9.5.4.D.5, Outdoor Performance
- Section 9.5.4.D.8, Noise
- Section 9.5.4.D.9, Sound Amplifying Equipment

In addition, this amendment corrects a discrepancy within this section related to performance activities. Currently, Section 9.5.4.D.7, Hours of Operation, states that “*Any performance activity from 10:00 pm - 11:00 pm must be in an enclosed building.*” This reference will be corrected to state “*Any performance activity from 8:00 pm to 11:00 pm must be in an enclosed building.*”

Further detailed information regarding this ordinance amendment can be found in the attached Planning Commission staff report dated April 21, 2016 (Attachment 3).

**Attachments:**

- (1) Draft Ordinance
- (2) Resolution 2016-041
- (3) April 21, 2016 Planning Commission Staff Report

The Town of  
**Leesburg,  
Virginia**

PRESENTED March 8, 2016

RESOLUTION NO.: 2016-041

ADOPTED March 8, 2016

A RESOLUTION: INITIATING AMENDMENTS TO THE ZONING ORDINANCE TO COMPORT WITH THE LEESBURG TOWN CODE AS IT RELATES TO NOISE IN THE R-1 RESIDENTIAL ZONING DISTRICT

WHEREAS, Leesburg Town Code Section 24-182(5) authorizes the use of sound amplifying equipment between the hours of 10:30 a.m., and 8:00 p.m., on any day, with a town-issued permit; and

WHEREAS, Leesburg Zoning Ordinance Section 9.5.4.D.5 prohibits outdoor performances in zoning district R-1 after 7:00 p.m., on any day; and

WHEREAS, Leesburg Zoning Ordinance Section 9.5.4.D.9 prohibits the use of sound amplifying equipment in zoning district R-1 after 7:00 p.m., on any day; and

WHEREAS, the Zoning Ordinance should be amended to comport with the Town Code.

THEREFORE, RESOLVED, the Council of the Town of Leesburg in Virginia directs the Town Attorney to prepare draft ordinances, advertise these draft ordinances and hold a public hearing on the following amendments to the Zoning Ordinance:

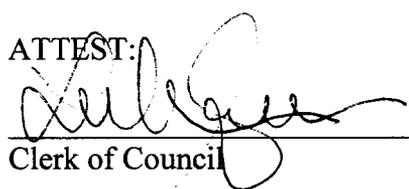
1. Amendment to Zoning Ordinance § 9.5.4.D.5 amending the time to 8:00 p.m., on any day;
2. Amendment to Zoning Ordinance § 9.5.4.D.9 amending the time to 8:00 p.m., on any day.

PASSED this 8<sup>th</sup> day of March, 2016.



David S. Butler, Mayor  
Town of Leesburg

ATTEST:



Clerk of Council



**Date of Commission Meeting:** April 21, 2016

**TOWN OF LEESBURG  
PLANNING COMMISSION  
PUBLIC HEARING**

**Subject:** TLOA-2016-0004, Standards for Specific Uses, Fair in the R-1 Zoning District, *Zoning Ordinance* Text Amendment.

**Staff Contact:** Scott E. Parker, AICP, Assistant Town Manager

**Proposal:** Amendments to Article 9 of the *Town of Leesburg Zoning Ordinance* (TLZO) to amend Section 9.5.4.D, Fair in the R-1 District, to replace “7:00 pm” with “8:00 pm” in four (4) locations to provide consistency with the Town Code. The specific proposals related to 9.5.4.D are:

1. Amend Section 9.5.4.D.5, Outdoor Performance, to permit outdoor performances up to 8:00 p.m.
2. Amend Section 9.5.4.D.7, Hours of Operation, to clarify that any performance activity from 8:00 pm to 11:00 pm must be in a fully enclosed building.
3. Amend Section 9.5.4.D.8, Noise, to permit the use of unenclosed mechanical equipment outdoors up to 8:00 p.m. to be consistent with the Town Code.
4. Amend Section 9.5.4.D.9, Sound Amplifying Equipment, to permit the use of sound amplifying equipment up to 8:00 pm to be consistent with the Town Code.

**Recommendation:** Staff recommends approval of the amendments to the *Zoning Ordinance* as presented in this report.

**Background:** On March 8, 2016, the Town Council unanimously approved Resolution No. 2016-041(Attachment 1) to initiate *Zoning Ordinance* text amendments in order to change the allowable time that outdoor performances and amplified music are allowed as part of a Fair within R-1 (single family, low density residential) zoning districts. The purpose of the change is to create consistency between the *Zoning Ordinance* and the Town Code (Chapter 24).

**Existing Regulations:** Current *Zoning Ordinance* regulations within Section 9.5.4. address Standards for Specific Temporary Uses such as carnivals, circuses, festivals, fairs, dog shows, and other similar uses. Section 9.5.4.D provides specific standards for Fairs in the R-1 District, stating that the use of sound amplification equipment shall not extend past 7:00 pm as part of the permitting process for a Fair. However, the Town’s noise ordinance as outlined within Chapter 24, Article V, Offenses against Public Peace and Order, states that the use of sound amplification

equipment shall not extend past 8:00 pm. Since Chapter 24 is referenced in the Zoning Ordinance, the provisions of the Town Code and the Zoning Ordinance conflict.

There are three sections of 9.5.4.D, Fair in the R-1 District, that are being proposed for a change from 7:00 pm to 8:00 pm to create consistency between the Town Code and the Zoning Ordinance:

- Section 9.5.4.D.5, Outdoor Performance
- Section 9.5.4.D.8, Noise
- Section 9.5.4.D.9, Sound Amplifying Equipment

In addition, this amendment fixes a discrepancy within this section related to performance activities. Currently, Section 9.5.4.D.7, Hours of Operation, states that “*Any performance activity from 10:00 pm - 11:00 pm must be in an enclosed building.*” This reference will be corrected to state “*Any performance activity from 8:00 pm to 11:00 pm must be in an enclosed building.*”

**Effect of Existing Regulations:** The Zoning Ordinance references Chapter 24 of the Town Code and incorrectly cites the time that the use of amplification is allowed through registration. Chapter 24, specifically section 24-182, states the use of sound amplification is allowed through proper registration with the Town Manager’s office until 8:00 pm. The net effect is confusion through conflicting provisions.

**Impact of Proposed Amendments:** The impact of the proposed amendments is to make the Zoning Ordinance consistent with the Town Code, and simply changes four (4) references within Section 9.5.4.D from “7:00 pm” to “8:00 pm.” With these changes, the Zoning Ordinance will not conflict with Town Code Section 24-182, which regulates sound and noise within the Town.

**Analysis:** Staff believes the changes to the Ordinance referenced here to be negligible in its effect. Since Chapter 24 of the Town Code is referenced, the Zoning Ordinance should accurately represent the language.

**Draft Amendment Language:** The amendment language is provided below for the Planning Commission’s review and consideration. Note that:

- Text highlighted in yellow and underlined is proposed new language.
- Text in ~~red and with strikethrough~~ is existing text proposed to be eliminated.

#### **Section 9.5.4.D - Fair in the R-1 District**

1. Existing Uses Only. Fairs may only be approved when located on a parcel with a pre-existing business or use on the subject R-1 zoned property. Vacant properties shall not be used for Fair uses.
2. Duration. A temporary use permit for such activities shall be issued for no more than three (3) consecutive days eight (8) times per year. The total number of days

**Planning Commission Public Hearing Staff Report**

**TLOA-2016-0004**

**April 21, 2016**

**Page 3 of 4**

allotted for the year may be consolidated resulting in more consecutive days, fewer times per year.

3. Location. No such activity shall be located closer than three hundred (300) feet to a residential use.
4. No Outdoor Mechanical Rides. No outdoor mechanical rides such as ferris wheels, merry-go-rounds or similar rides are permitted.
5. Outdoor Performances. No outdoor performance on the property shall be permitted after ~~7:00~~ 8:00 p.m. on any day. Performances after that time must be in a fully-enclosed building.
6. Off-Street Parking and Access. Adequate provisions must be made for off- street parking; safe ingress and egress must be provided as shown on a parking plan and approved by the Zoning Administrator.
7. Hours of Operation. Such activities are permitted only between the hours of 10:00 a.m. and 11:00 p.m. Monday – Saturday; 10:00 a.m. and 10:00 p.m. Sunday including set-up and knock-down. Any performance activity from ~~10:00~~ 8:00 p.m. – 11:00 p.m. must be in a fully enclosed building.
8. Noise. All permitted Temporary Use Permits shall be subject to Town of Leesburg noise limitations according to Zoning Ordinance Section 7.9 Noise Limitations and Enforcement and Town Code Chapter 24 Article ~~5~~ V Offenses Against Public Peace and Order. The use of unenclosed mechanical equipment of any kind shall not extend past ~~7:00~~ 8:00 p.m. of any day.
9. Sound Amplifying Equipment. Per Town Code Chapter 24 Article ~~5~~ V Offenses Against Public Peace and Order, use of sound amplifying equipment shall be registered with the Town Manager at least 48 hours in advance of the use; use of such equipment shall not extend past ~~7:00~~ 8:00 p.m. of any day as part of a fair temporary use permit.
10. Illumination. Night operations shall be permitted only if there is a lighting plan approved by the Zoning Administrator that provides for safe lighting without excessive glare into residential areas or onto public streets in accordance with Sec. 12.11 Outdoor Lighting.

**RECOMMENDATION AND DRAFT MOTIONS:**

Staff recommends the Planning Commission forward TLZO-2016-0004 to Town Council with a recommendation of approval.

**Motion for Approval**

I move that *Zoning Ordinance* Text Amendment TLOA-2016-0004, amending the Article 9 noise limitations for a fair in the R-1 District to be consistent with the Town Code be forwarded to the Town Council with a recommendation of approval as proposed in the staff report dated April 21, 2016 on the basis that the amendments will serve the public necessity, convenience, general welfare and good zoning practice.

-Or-

**Motion for Approval with Changes**

I move that *Zoning Ordinance* Text Amendment TLOA-2016-0004, amending the Article 9 noise limitations for a fair in the R-1 District to be consistent with the Town Code be forwarded to the Town Council with a recommendation of approval on the basis that the amendments will serve the public necessity, convenience, general welfare and good zoning practice. The proposed language shown in the staff report dated April 21, 2016 is revised as follows to incorporate the following changes recommended by the Planning Commission: [list changes]

-Or-

**Alternate Motion**

I move that \_\_\_\_\_ [list reasons].

**Attachment(s):**

1. Town Council Resolution No. 2016-041.

PRESENTED: May 10, 2016

ORDINANCE NO. \_\_\_\_\_

ADOPTED: May 10, 2016

AN ORDINANCE: AMENDING ARTICLE 9, SECTION 9.5.4.D, STANDARDS FOR SPECIFIC USES, FAIR IN THE R-1 DISTRICT, TO PROVIDE CONSISTENCY WITH TOWN CODE CHAPTER 24

The Town Council of Leesburg, Virginia, hereby ordains:

**SECTION I.** That the following sections of the Zoning Ordinance of the Town of Leesburg, Virginia, 2003, as amended, be and the same are hereby amended to read as follows:

**Section 9.5.4.D - Fair in the R-1 District**

1. Existing Uses Only. Fairs may only be approved when located on a parcel with a pre-existing business or use on the subject R-1 zoned property. Vacant properties shall not be used for Fair uses.
2. Duration. A temporary use permit for such activities shall be issued for no more than three (3) consecutive days eight (8) times per year. The total number of days allotted for the year may be consolidated resulting in more consecutive days, fewer times per year.
3. Location. No such activity shall be located closer than three hundred (300) feet to a residential use.
4. No Outdoor Mechanical Rides. No outdoor mechanical rides such as ferris wheels, merry-go-rounds or similar rides are permitted.
5. Outdoor Performances. No outdoor performance on the property shall be permitted after ~~7:00~~ **8:00** p.m. on any day. Performances after that time must be in a fully-enclosed building.
6. Off-Street Parking and Access. Adequate provisions must be made for off- street parking; safe ingress and egress must be provided as shown on a parking plan and approved by the Zoning Administrator.
7. Hours of Operation. Such activities are permitted only between the hours of 10:00 a.m. and 11:00 p.m. Monday – Saturday; 10:00 a.m. and 10:00 p.m. Sunday including set-up and knock-down. Any performance activity from ~~10:00~~ **8:00** p.m. – 11:00 p.m. must be in a fully enclosed building.

AN ORDINANCE: AMENDING ARTICLE 9, SECTION 9.5.4.D, STANDARDS FOR SPECIFIC USES, FAIR IN THE R-1 DISTRICT, TO PROVIDE CONSISTENCY WITH TOWN CODE CHAPTER 24

8. Noise. All permitted Temporary Use Permits shall be subject to Town of Leesburg noise limitations according to Zoning Ordinance Section 7.9 Noise Limitations and Enforcement and Town Code Chapter 24 Article ~~5~~V Offenses Against Public Peace and Order. The use of unenclosed mechanical equipment of any kind shall not extend past ~~7:00~~ 8:00 p.m. of any day.
9. Sound Amplifying Equipment. Per Town Code Chapter 24 Article ~~5~~V Offenses Against Public Peace and Order, use of sound amplifying equipment shall be registered with the Town Manager at least 48 hours in advance of the use; use of such equipment shall not extend past ~~7:00~~ 8:00 p.m. of any day as part of a fair temporary use permit.
10. Illumination. Night operations shall be permitted only if there is a lighting plan approved by the Zoning Administrator that provides for safe lighting without excessive glare into residential areas or onto public streets in accordance with Sec. 12.11 Outdoor Lighting.

**SECTION II.** All prior ordinances in conflict herewith are hereby repealed.

**SECTION III.** Severability. If a court of competent jurisdiction declares any provision of this ordinance invalid, the decision shall not affect the validity of the ordinance as a whole or any remaining provisions of the Leesburg Town Code.

**SECTION IV** This ordinance shall be effective upon its adoption.

PASSED this 10<sup>th</sup> day of May, 2016.

---

David S. Butler, Mayor  
Town of Leesburg

ATTEST:

---

Clerk of Council