



MUSIC IN BARS AND RESTAURANTS THE LAW AND FAQ'S

One of our members enquired after the legality of a letter – copied on page 2 of this info document - being handed out by Town Hall to hosteleria establishments in Torrox, Málaga province early this Spring, as to his knowledge no complaints were filed by neighbours when previously the bars and restaurants in the area organised live music events.

Furthermore, he asked how hosteleria owners should go about acquiring a licence for music events, especially as the mayor of the town, when asked about this by one of the bar owners that had received this letter, told them to just continue as usual.... and how to act when a complaint would be filed.

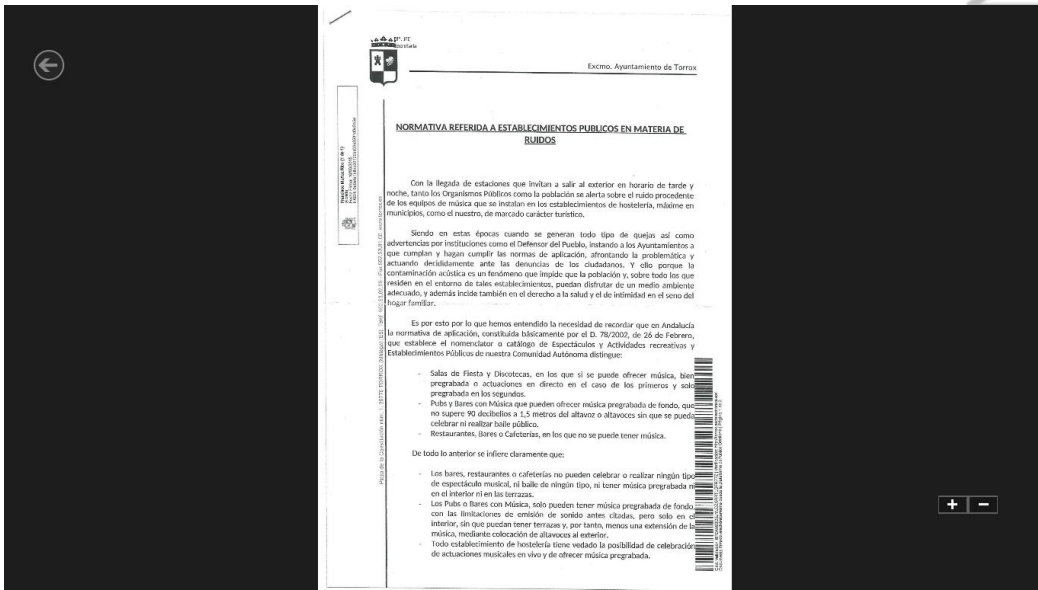
We corresponded by email on this subject, and thought the information provided could benefit others, so I copied the relevant bits and pasted them below.

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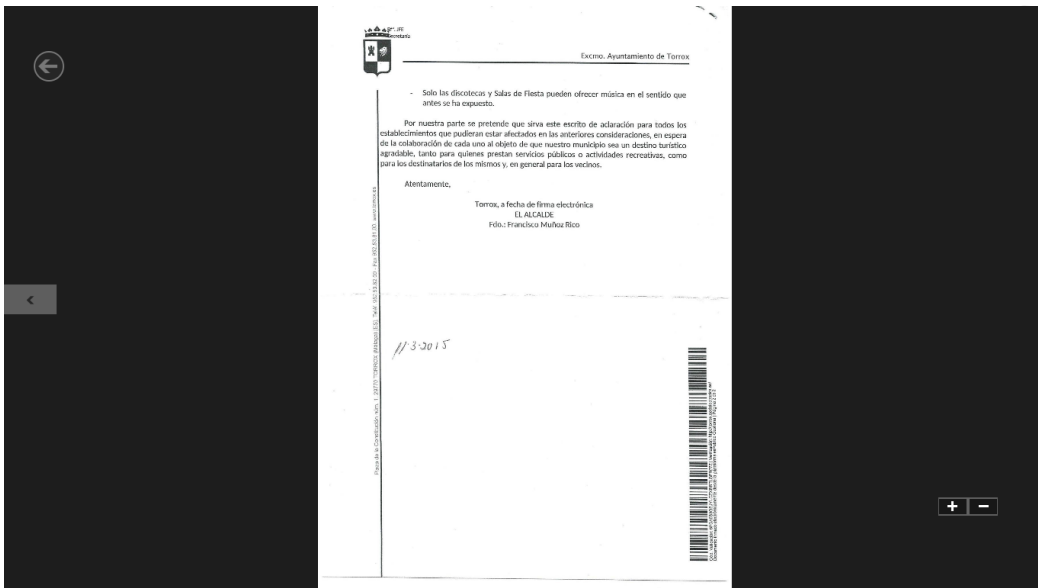
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Answer:

First things first... where does this all come from?

Presumably from the gigantic fines your neighbouring town Torre del Mar has recently been ordered to pay to neighbours who have taken their complaints about noise from music played or performed in 'hosteleria' establishments to court.

The laws have been in place since 2002, but only recently, and in most cases, triggered by complaints from neighbours, been enforced more strictly, especially in your part of the Málaga province.

I checked the facts/classifications as mentioned in the letter from Town Hall with the actual [Royal Decree](#) and they are correct, BUT they 'forgot' to mention another category of establishment that would be allowed to both play recorded music and have live artists perform and that is a 'salon de celebraciones'. Many restaurants have those, to celebrate social events like weddings and communions and as long as the Salon the Celebraciones is specifically mentioned on their Licencia de Apertura, they would be able to organise musical events, as long as they meet the noise restriction rules that are laid out in the Local [ORDENANZA DE PROTECCIÓN DEL MEDIO AMBIENTE EN MATERIA DE RUIDOS Y VIBRACIONES](#).

The rules to apply are quite complicated, there are maxima in decibels for differently classified areas of town, and a maximum of decibels in the interior of the location where the event is held.

The only exception for outdoor musical events I've been able to find is during feria's, verbena's etc. (art. 46 of the local Ordenanza).

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Summarising - if your establishment is not classified as a 'music' establishment, and this should be confirmed on your Licencia de Apertura, you are not allowed to either play recorded music, or organise live music events. So, in theory, all applications for licences for permission to organise a music event (either live or using pre-recorded music) must be checked with the classification of the establishment, and can only be granted if, besides the correct classification of the establishment, the application of the licence meets the remaining requisites with regards to documentation to certify expected noise levels, necessary insulation etc. (art. 44 and 45 of the Local Ordenanza).

Bars and Pubs need the classification 'con musica' in their Opening Licence, to be able to play pre-recorded music, but cannot have loudspeakers directed to the exterior. Max. of 90 decibel. If exceeding that, a clear, permanent sign must warn for damage to auditory organs when entering the premises.

Discotecas - the same, but limited to interior.

Salas de Fiesta - both pre-recorded and live music, but limited to interior.

Salon de Celebraciones - both pre-recorded and live music, but limited to interior.

Bars and Pubs without the 'con musica' classification, restaurants and cafés cannot have music of any kind, so it would be useless to apply for a licence for a musical event to be held there, assuming the application for the licence will be processed as I described above.

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I think that the only way to find out, would be for individual bar owners to apply for a licence for each and every musical event they intend to organise, and have Town Hall inform them what exactly they have to comply with to be able to get the licence approved.

And when they know that, they will know how to respond to complaints as well. If the actual event meets the requirements as stated in the licence - nothing to worry about. If not, it's the responsibility of the bar owner to correct on the spot, because if not, the complaining neighbour has every right to call the police and the event can be cancelled if, even when the police arrives, the owner refuses or is unable to correct the situation so that it meets the requirements of the licence.

Further questions from member:

The notification was "hand delivered" to bars in the pueblo, directly from the Ayuntamiento here in Torrox. As I understand it. ONLY bars in the pueblo have received this notification.

The concern about the notification was that the bars themselves had received no complaints, no visits from the police or from the Ayto prior to this notice. Also of concern was the fact that no date is given as to when this ban is effective from. And, as I think I pointed out, the mayor's response when questioned about the notification was to say, "Carry on as normal unless we get complaints." Well I'm assuming the ban is in place because of complaints? Or am I missing something? Can I ask? Would it be reasonable to assume that the Ayto should be able to give the bars/hostelerias a copy of the full law from which this notification comes from? It seems to me that the Ayto has been selective in its interpretation of the law for this notification.

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Also. Is it an easy thing to change the Licencia de Apertura to be a Salon de Celebraciones?

Answer:

It's not a 'ban' as such, it's just that they have decided to finally enforce the law that has been in place since 2002. So there is no 'as of' date either, that was way back in 2002.

Presumably because in Torre del Mar they've had big problems recently. Complaints from neighbours that led to the discovery that Town Hall had not applied the law correctly in numerous cases when issuing licencias de apertura. I think that your Town Hall, by handing out the letter, which they state is just a reminder of the law in place, is just trying to cover its back.

Must make clear though, that all hosteleria establishments must abide by this same law, whether they have received this letter from Town Hall or not.

I think that changing the licence to Salon de Celebraciones is not that easy, as then the possible noise pollution for the neighbourhood would have to be analysed. Bar owners would be required to supply technical reports with the application of the licence, certifying the insulation etc. in the salon, to guarantee that noise levels would stay within legal range.

Here's [a LINK](#) to the actual law they refer to. This law, together with the local ordenanza, that I gave you the link for yesterday, are the relevant 'normativa' to do with noise pollution.

Another question:

Could the Ayto be held responsible for selective or discriminative choice for issuing this notification? I know, as I write this, that bars on Torrox Costa, some, if not most, in close proximity to residencial premises, have not received this notification. A

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tricky area to address I guess. But to be clear, by discrimination I just mean this to be between the pueblo and the costa.

Answer:

If anything, TownHall would probably reason it would be 'positive' discrimination, as it's not as if some bars are put under a 'ban' and others not, they 'kindly' reminded some of the existence of this law, and others not. I would say it's not very consistent, but not a legally reproachable act, in my opinion. There would be an issue if bars that have not been handed the letter, will be treated differently when applying for a licence for a musical event, than the bars that have received it. If their 'classification' is identical, that is.

Richelle de Wit, 08/04/2015

<https://www.facebook.com/groups/citizenspain/>

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