



Council
Communication
 Office of the City Manager

Date	February 11, 2008
Agenda Item No.	39
Roll Call No.	<u>08-</u>
Communication No.	<u>08-048</u>
Submitted by: Richard A. Clark, City Manager	

AGENDA HEADING:

Amending Chapter 42, Article IV of the Municipal Code regarding noise.

SYNOPSIS:

Recommend approval of the amendments to Chapter 42, Article IV of the Municipal Code regarding noise. The proposed amendments would do the following:

- **Add a Type “E” permit for background sound equipment:**
 A Type “E” permit may be issued for sound equipment emitting music or human speech, excluding live music, registering not more than 65 dBAs, or below the ambient level when measured at the property boundary, edge of designated seating area or 50 feet from the sound equipment, which ever is closer. Sound equipment permitted under a Type “E” permit may be used only during regular hours of business operation.

- **Add a month-long sound permit:**
 Month-long permits may be issued for amplified sound for use on eight days designated by the permit holder in a one month time period. There is no limit to the number of month-long permits a person can be granted.

- **Increase permit fees:**

	<u>Proposed:</u>	<u>Current:</u>
-One day or less:	\$40.00	\$20.00
-Over one day through one week	\$100.00	\$40.00
-Permits for one month to be used on eight designated days:	\$200.00	N/A
-Background sound permit (this permit is allowed for one year)	\$300.00	\$200.00 (for year-long permits)

- **Decrease allowable decibel levels and hours for Type A permits:**
 Type A permits are issued for commercial or mixed-use areas. The allowable decibel levels will be set at 85 dBAs from the hours of 9:00 a.m to 11:00 p.m. Sunday through Thursday and between the hours of 9:00 a.m. and 12:00 a.m. on Friday and Saturday, the Sunday of Memorial Day weekend, Labor Day weekend and the Fourth of July should it fall on a Sunday. This is a decrease from the allowed limit of 100 dBAs measured at 50 feet from the property line.

- **Change the process by which a sound permit may be revoked:**
 A permit may, upon hearing, be revoked upon the second notice of violation issued in a 12-month period. If a permit is revoked, the applicant cannot apply for another permit for 180 days. This is a decrease from two notices of violation in a 24-month period. Revocation of a sound permit will now be through an administrative hearing process.

- **Change the process in which decibel readings are taken:**
Decibel readings will be taken at the property boundary, edge of designed seating area or 50 feet from the sound equipment, whichever is closer, rather than from 50 feet from the property line.
- **Decrease distance when measuring detectable sound vibrations from a vehicle between the hours of 7:00 p.m and 7:00 a.m.:**
No person operating or in control of a motor vehicle, recreational vehicle, watercraft, or vessel shall operate or permit the operation of a sound system in the vehicle so as to produce a vibration or sound that is clearly detectable at a distance of fifty (50) feet from the vehicle between the hours of 7:00 a.m. and 7:00 p.m. or clearly detectable at a distance of twenty-five (25) feet from the vehicle between the hours of 7:00 p.m. to 7:00 a.m.

FISCAL IMPACT:

Amount: Additional revenue is anticipated due to the recommended increase in the sound permit fees.

Funding Source: FY07-08 Operating Budget, GE001, CDD070100, pg. 96

ADDITIONAL INFORMATION:

At the Council Workshop of October 29, 2007, staff presented amendment recommendations to Council regarding the City's Noise Ordinance. At the November 5, 2007 Council meeting, by Roll Call No. 07-2153, Council placed a moratorium on the issuance of year-long sound permits. Staff had received numerous complaints from citizens regarding noise from sound equipment used in conjunction with sound permits causing noise disturbances at residences throughout the City of Des Moines.

The current noise ordinance allows for the issuance of year-long sound permits for amplified sound in C-3 Central Business Districts to be measured at no more than 100 dBAs at a distance of 50 feet from the sound equipment. Staff believed that these sound levels and the year-long permits are excessive, and a review of the sound ordinance as it relates to sound levels, length of time permits are allowed to run, as well as other provisions in the ordinance was necessary. Staff has spent the last several months amending the entire noise ordinance to insure that the City of Des Moines has a balance between the business use of property for entertainment and the peaceful enjoyment of residential dwellings. The current noise ordinance has been in existence for approximately 30 years. The proposed increase in fees reflects the current enforcement and administrative costs.

As directed by Council, staff held a public hearing on November 15th and invited business establishments, neighborhood associations and holders of year-long sound permits to provide their input on the recommended ordinance changes. Staff took into consideration all the suggestions and comments that were given at this public hearing as they were amending the ordinance.

Staff is also recommending that the Council review this ordinance in one year to ensure the amendments are providing the proper balance between entertainment areas and residences.

PREVIOUS COUNCIL ACTION(S):

Date: November 5, 2007

Roll Call No.: 07-2153

Action: Resolution establishing a temporary moratorium on issuance of year-long sound permits.
(Council Communication No. 07-669) Moved by Hensley to adopt. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

Second and third readings of the ordinance.