

 <b>Council Communication</b> Office of the City Manager	<b>Date</b>	June 9, 2008
	<b>Agenda Item No.</b> 64 <b>Roll Call No.</b> <u>08-</u> <b>Communication No.</b> <u>08-357</u> <b>Submitted by:</b> 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 as follows:

- Addition of a Type I permit – Waterworks Park. A Type I permit may be issued for amplification equipment for live performances held in Waterworks Park, emitting music or human speech, at a level not greater than 85 decibels when measured at the nearest residence. A Type I permit is effective for one or two days and for the hours of 9:00 a.m. and 10:00 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. Additionally, the stage and sound equipment shall be set up facing the northeast causing the sound to be directed through the park and away from residential areas.
- Amending section 42-264 to add an appeal process in circumstances where the Community Development Director decides the variance question without an administrative hearing.
- Amending section 42-254 referencing the table on dBA limits measured from the receiving land use.

## **FISCAL IMPACT: NONE**

Amount: N/A

Funding Source: N/A

## **ADDITIONAL INFORMATION:**

At the Council meeting of May 5, 2008, Council approved a variance for the Lazerfest concert to be held in Waterworks Park on May 21<sup>st</sup> allowing the decibel limit to be increased from the 65 dBAs allowed to 85 dBAS measured at the nearest residential property boundary. With this action, Council also requested that staff monitor the concert and take numerous sound level readings throughout Waterworks Park during the concert to determine if the ordinance should be amended to allow higher decibels for other concerts in Water Works Park.

Staff took several readings:

- 1) The front gate which was approximately 400 feet from the stage - decibel readings were in the low 80s
- 2) The sound board area, which was approximately 100 feet from the stage - decibel readings were in the low 90s, and
- 3) Behind the pond directly in line with the stage facing toward the Principal Financial building located at 801 Grand Ave. - decibel readings were in the low to mid-70s.

Staff then took readings at the nearest residence and obtained decibel readings in the upper 60's to low 70s with the highest reading being 74.

Along with the higher decibel levels, staff is also recommending that the ordinance be amended to state that the stage and sound equipment for a concert in Waterworks Park be set up in such a way that they are facing the northeast so the sound will travel through the park and away from residential areas.

The other amendments do the following:

- Add an appeal process in circumstances when the Community Development Director decides the variance question without an administrative hearing, and
- Delete the language referencing that the table on dBA limits measured from the receiving land use was not applicable to amplified sound. The table was meant to be applicable to amplified sound when no permits have been issued.

#### **PREVIOUS COUNCIL ACTION(S):**

Date: May 5, 2008

Roll Call No.: [08-838](#)

Action: [Variance](#) to Chapter 42, Article IV of the Municipal Code regarding noise for Lazerfest concert to be held on May 21, 2008 in Water Works Park, with conditions. ([Council Communication No. 08-251](#)) Moved by Kiernan to adopt. Motion Carried 6-1.

Date: April 7, 2008

Roll Call No.: 08-599

Action: [Amending](#) Chapter 42 of the Municipal Code regarding noise, as amended. ([Council Communication No. 08-204](#)) Moved by Kiernan that this ordinance be considered and given second vote for passage. Motion Carried 6-1.

Date: March 24, 2008

Roll Call No.: 08-506

Action: [Amending](#) Chapter 42 of the Municipal Code regarding noise. ([Council Communication No. 08-166](#)) Moved by Kiernan that this ordinance be considered and given first vote for passage; refer to the City Manager to look at creating an "Entertainment District" classification that operates by a different set of rules and standards than the residential neighborhoods. Motion Carried 6-1. Nays: Coleman.

Date: February 11, 2008

Roll Call No.: 08-240

Action: Amending Chapter 42 of the Municipal Code regarding noise control. (Council Communication No. 08-048) Moved by Kiernan that this ordinance be considered and given first vote for passage, amended as follows: 1) The city-wide Type A Permit to be allowed from 9:00 A.M. to 10:00 P.M. 2) The downtown permit for Sunday through Thursday to be allowed from 9:00 A.M. to 10:00 P.M. 3) Appeals of the Hearing Officer decisions will be heard by the City Council; refer to the City Manager to review changes to the Downtown area and other entertainment venues to allow higher decibel levels for live music events. This recommendation will be forwarded to Council at a later date. Motion Carried 5-2. Nays: Coleman and Meyer.

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 reading of the noise ordinance.

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