



Roll Call Number

Agenda Item Number

41

Date March 9, 2020

Annie Baldwin request to speak on Des Moines Downtown/Entertainment District sound permits.

Moved by _____ to receive and file.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				

CERTIFICATE

I, P. Kay Cmelik City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED

APPROVED

Mayor

City Clerk

41

Cmelik, P. Kay

From: noreply@revize.com
Sent: Monday, February 24, 2020 1:52 PM
To: CouncilSpeak
Cc: Cmelik, P. Kay
Subject: REQUEST TO SPEAK BEFORE THE CITY COUNCIL

Name = Annie Baldwin
Address = 206 Third Street
City_Town = Des Moines
Stat_Prov = Iowa
Zip = 50309
Phone = 515-707-8117
Email = anniebaldwin@me.com
Speaker(s) = Annie Baldwin
Meeting Date = Monday, March 9, 2020
Regarding = Des Moines downtown/ entertainment district sound permits.
Client IP = 174.217.19.189



DICKINSON LAW
Dickinson Mockaman Tyler & Hagen P.C.

March 3, 2020

**Re: COMMUNICATION FROM ANNA MARY BALDWIN TO MAYOR AND
CITY COUNSEL OF THE CITY OF DES MOINES, IOWA**

Ladies and Gentlemen:

As most of you know I am the owner and Operator of Annie's Irish Pub located at the corner of Third and Court Street in downtown Des Moines. For years I have been involved in the operation and promotion of the Court Avenue Entertainment District. I have organized and promoted special events such as St. Patrick's day celebrations, and have promoted the general safety, crowd control, and neighborhood relations in that area. In that regard I have always cooperated with municipal authorities and obeyed your regulations.

As you know, my venue has a large and popular outdoor seating establishment and has frequently in the past operated sound equipment for live and recorded music. In doing so, I have always acted in compliance with Des Moines's Ordinance No. 15,853 in so far as I know, including applying and paying for Type A permits. This year when making my applications for the season, I was informed that I was limited to eight (8) permits per month with no ability to cancel or make substitutions for unforeseen events such as severe weather.

Upon learning of these issues from City staff, I obtained a copy of your ordinance No. 15,853 which is Sec. 42-258 of the Code as well as Sec. 42-264 of the Code dealing with variances. Let me first comment on the latter section.

1. In the first instance, the variance section does not seem to contemplate dealing with the issues I have. It does not, for instance, deal with the concept of rescheduling for weather issues.
2. It does not deal with the concept of additional permits in areas where community concerns have already been addressed such as an entertainment district.
3. It appears to be unnecessarily time consuming, bureaucratic, and inflexible.

Dealing now with my principal concern, that being the number of permits available per month (8); let me start with my business plan. It is my hope to have live or recorded music available on a regular basis every Friday and Saturday night, on Sunday afternoons and evenings particularly before holidays (Labor and Memorial Days and on July 4th when that holiday is not on a weekend). I would also like to have music on at least one week night for shorter hours.

Obviously my business plan cannot be fully set in motion with the eight permit per month rule. Indeed several months have nine or ten weekend days. I

could not have music on Sundays even before holidays. The long and short of my concern is that your eight day limit is arbitrary and too small for an entertainment district. I would suggest either making the limit much larger or giving your community development personnel discretion to issue additional permits for those who regularly request or need them.

Very truly yours,

A handwritten signature in cursive script that reads "Annie Baldwin". The signature is written in dark ink and is positioned above the printed name.

Annie Baldwin

APRIL 2020

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JUNE 2020

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JULY 2020

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AUGUST 2020

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SEPTEMBER 2020

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OCTOBER 2020

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April 2020



CITY OF DES MOINES - SOUND PERMIT

TITLE HOLDER: **TBJ LLC**

PERMIT NO.: **SND2020-00002**

DATE ISSUED: **02/12/2020**

HOURS: **9AM - 12:30AM (Weekends)**

SITE ADDRESS: **204 3RD ST**

EVENT DATE:

Multiple Dates: **Y**

4/3/2020 4/4/2020

4/24/2020 4/11/2020

4/17/2020 4/18/2020

4/10/2020 4/25/2020

ZONING DISTRICT:

Applicant

ANNIE BALDWIN
7424 EAGLE POINTE DR
JOHNSTON IA 50131

Person on Site.: **ANNIE BALDWIN**

Phone #.: **5157078117**

TYPE OF PERMIT: A - Downtown Districts 9AM-12:30AM (Weekends)

An 'A' permit is issued to businesses located in commercial or mixed use zones. Not including M-1, M-2 or M-3 zoned districts. The permit is good for a thirty day time period for eight specific days. The sound is limited to 85 dBCs measured at the property line or 50' from sound equipment if it is street closure (not adjacent to the business, such as on a bridge).

FEE SCHEDULE			
Type	By	Date	Amount
Monthly Fee	HAB1	2/12/2020	\$200.00
Total:			\$200.00

SPECIAL CONDITIONS:

N/A

MAY 2020



CITY OF DES MOINES - SOUND PERMIT

2/12/2020
12:04PM
Page 1 of 1

TITLE HOLDER: **TBJ LLC**

PERMIT NO.: **SND2020-00003**

DATE ISSUED: **02/12/2020**

HOURS: **9AM - 12:30AM (Weekends)**

SITE ADDRESS: **204 3RD ST**

EVENT DATE:
Multiple Dates: Y

5/8/2020	5/9/2020
5/29/2020	5/16/2020
5/22/2020	5/23/2020
5/15/2020	5/30/2020

ZONING DISTRICT:

Applicant

ANNIE BALDWIN
7424 EAGLE POINTE DR
JOHNSTON IA 50131

Person on Site.: **ANNIE BALDWIN**

Phone #.: **5157078117**

TYPE OF PERMIT: A - Downtown Districts 9AM-12:30AM (Weekends)

An 'A' permit is issued to businesses located in commercial or mixed use zones. Not including M-1, M-2 or M-3 zoned districts. The permit is good for a thirty day time period for eight specific days. The sound is limited to 85 dBCs measured at the property line or 50' from sound equipment if it is street closure (not adjacent to the business, such as on a bridge).

FEE SCHEDULE			
Type	By	Date	Amount
Monthly Fee	HAB1	2/12/2020	\$200.00
Total:			\$200.00

SPECIAL CONDITIONS:

N/A

JUNE 2020



2/12/2020
12:05PM
Page 1 of 1

CITY OF DES MOINES - SOUND PERMIT

TITLE HOLDER: **TBJ LLC**

PERMIT NO.: **SND2020-00004**
DATE ISSUED: **02/12/2020**

SITE ADDRESS: **204 3RD ST**

HOURS: **9AM - 12:30AM (Weekends)**

ZONING DISTRICT:

EVENT DATE:
Multiple Dates: Y
6/5/2020 6/6/2020
6/26/2020 6/13/2020
6/19/2020 6/20/2020
6/12/2020 6/27/2020

Applicant
ANNIE BALDWIN
7424 EAGLE POINTE DR
JOHNSTON IA 50131

Person on Site.: **ANNIE BALDWIN**
Phone #.: **5157078117**

TYPE OF PERMIT: A - Downtown Districts 9AM-12:30AM (Weekends)

An 'A' permit is issued to businesses located in commercial or mixed use zones. Not including M-1, M-2 or M-3 zoned districts. The permit is good for a thirty day time period for eight specific days. The sound is limited to 85 dBCs measured at the property line or 50' from sound equipment if it is street closure (not adjacent to the business, such as on a bridge).

FEE SCHEDULE			
Type	By	Date	Amount
Monthly Fee	HAB1	2/12/2020	\$200.00
Total:			\$200.00

SPECIAL CONDITIONS:
N/A

JULY 2020



2/12/2020
12:06PM
Page 1 of 1

CITY OF DES MOINES - SOUND PERMIT

TITLE HOLDER: TBJ LLC

PERMIT NO.: SND2020-00005

DATE ISSUED: 02/12/2020

HOURS: 9AM - 12:30AM (Weekends)

SITE ADDRESS: 204 3RD ST

ZONING DISTRICT:

EVENT DATE:

Multiple Dates: Y

7/3/2020	7/4/2020
7/24/2020	7/11/2020
7/17/2020	7/18/2020
7/10/2020	7/25/2020

Applicant

ANNIE BALDWIN
7424 EAGLE POINTE DR
JOHNSTON IA 50131

Person on Site.: ANNIE BALDWIN

Phone #.: 5157078117

TYPE OF PERMIT: A - Downtown Districts 9AM-12:30AM (Weekends)

An 'A' permit is issued to businesses located in commercial or mixed use zones. Not including M-1, M-2 or M-3 zoned districts. The permit is good for a thirty day time period for eight specific days. The sound is limited to 85 dBCs measured at the property line or 50' from sound equipment if it is street closure (not adjacent to the business, such as on a bridge).

FEE SCHEDULE			
Type	By	Date	Amount
Monthly Fee	HAB1	2/12/2020	\$200.00
Total:			\$200.00

SPECIAL CONDITIONS:

N/A

AUGUST 2020



2/12/2020
12:09PM
Page 1 of 1

CITY OF DES MOINES - SOUND PERMIT

TITLE HOLDER: TBJ LLC

PERMIT NO.: SND2020-00006

DATE ISSUED: 02/12/2020

HOURS: 9AM - 12:30AM (Weekends)

SITE ADDRESS: 204 3RD ST

EVENT DATE:
Multiple Dates: Y

8/1/2020	8/7/2020
8/22/2020	8/14/2020
8/15/2020	8/21/2020
8/8/2020	8/29/2020

ZONING DISTRICT:

Applicant

ANNIE BALDWIN
7424 EAGLE POINTE DR
JOHNSTON IA 50131

Person on Site.: ANNIE BALDWIN

Phone #.: 5157078117

TYPE OF PERMIT: A - Downtown Districts 9AM-12:30AM (Weekends)

An 'A' permit is issued to businesses located in commercial or mixed use zones. Not including M-1, M-2 or M-3 zoned districts. The permit is good for a thirty day time period for eight specific days. The sound is limited to 85 dBCs measured at the property line or 50' from sound equipment if it is street closure (not adjacent to the business, such as on a bridge).

FEE SCHEDULE			
Type	By	Date	Amount
Monthly Fee	HAB1	2/12/2020	\$200.00
Total:			\$200.00

SPECIAL CONDITIONS:

N/A

SEPT 2020



2/12/2020
1:12PM
Page 1 of 1

CITY OF DES MOINES - SOUND PERMIT

TITLE HOLDER: **TBJ LLC**

PERMIT NO.: **SND2020-00007**

DATE ISSUED: **02/12/2020**

HOURS: **9AM - 12:30AM (Weekends)**

SITE ADDRESS: **204 3RD ST**

ZONING DISTRICT:

EVENT DATE:
Multiple Dates: Y

9/4/2020	9/5/2020
9/25/2020	9/12/2020
9/18/2020	9/19/2020
9/11/2020	9/26/2020

Applicant

ANNIE BALDWIN
7424 EAGLE POINTE DR
JOHNSTON IA 50131

Person on Site.: **ANNIE BALDWIN**

Phone #.: **5157078117**

TYPE OF PERMIT: A - Downtown Districts 9AM-12:30AM (Weekends)

An 'A' permit is issued to businesses located in commercial or mixed use zones. Not including M-1, M-2 or M-3 zoned districts. The permit is good for a thirty day time period for eight specific days. The sound is limited to 85 dBCs measured at the property line or 50' from sound equipment if it is street closure (not adjacent to the business, such as on a bridge).

FEE SCHEDULE			
Type	By	Date	Amount
Monthly Fee	HAB1	2/12/2020	\$200.00
Total:			\$200.00

SPECIAL CONDITIONS:

N/A

OCTOBER 2020



2/12/2020
1:12PM
Page 1 of 1

CITY OF DES MOINES - SOUND PERMIT

TITLE HOLDER: **TBJ LLC**

PERMIT NO.: **SND2020-00008**

DATE ISSUED: **02/12/2020**

HOURS: **9AM - 12:30AM (Weekends)**

SITE ADDRESS: **204 3RD ST**

ZONING DISTRICT:

EVENT DATE:

Multiple Dates: **Y**

10/2/2020	10/3/2020
10/30/2020	10/10/2020
10/16/2020	10/17/2020
10/9/2020	10/31/2020

Applicant

ANNIE BALDWIN
7424 EAGLE POINTE DR
JOHNSTON IA 50131

Person on Site.: **ANNIE BALDWIN**

Phone #.: **5157078117**

TYPE OF PERMIT: A - Downtown Districts 9AM-12:30AM (Weekends)

An 'A' permit is issued to businesses located in commercial or mixed use zones. Not including M-1, M-2 or M-3 zoned districts. The permit is good for a thirty day time period for eight specific days. The sound is limited to 85 dBCs measured at the property line or 50' from sound equipment if it is street closure (not adjacent to the business, such as on a bridge).

FEE SCHEDULE			
Type	By	Date	Amount
Monthly Fee	HAB1	2/12/2020	\$200.00
Total:			\$200.00

SPECIAL CONDITIONS:

N/A

ORDINANCE NO. 15,853

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by amending Sections 42-258 and 42-263, relating to noise control.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, is hereby amended by amending Sections 42-258 and 42-263, relating to noise control, as follows:

Sec. 42-258. Sound equipment, sound amplifying equipment and construction equipment.

- (a) *Permit required.* No person shall, use, operate or cause to be used or operated any sound equipment or tools or equipment used in construction activities beyond the hours permitted under section 42-260 of this article upon the public right-of-way or in any building or upon any premises, public or private, creating a noise disturbance unless such person:
 - (1) First obtains a permit in accordance with this section;
 - (2) Complies with the conditions imposed by the permit, including the maximum permitted sound level shown therein;
 - (3) Complies with the provisions of chapter 102 of this Code, as it regulates street closings; and
 - (4) Complies with all other applicable subsections of this section.
- (b) *"Sound equipment"* requiring a permit shall not include:
 - (1) Equipment used for public health and safety purposes.
 - (2) Church or clock carillons, bells or chimes.
 - (3) Automobile or boat radios, tape decks or players, or other standard equipment used and intended for the use and enjoyment of the vehicle occupants, provided the sound emitting there from does not create a noise disturbance or does not violate section 42-259.
 - (4) Un-amplified live music provided, sponsored, or funded, in whole or in part, by a governmental entity.
- (c) *Permit, fees.* A separate permit shall be required for each type of activity described in subsection (e) of this section, and permits shall be nontransferable. The permit shall be conspicuously displayed on or immediately adjacent to the sound equipment. A nonrefundable fee shall be paid in the amount set in the schedule of fees adopted by the City Council by resolution at the time of application for the sound permit.
- (d) *Information required on permit application.* Application for the permit required in this section shall be made in writing to the zoning enforcement officer, accompanied by the required permit fee and the following information:
 - (1) The type of permit requested.

- (2) The name and address of the applicant.
- (3) The purpose for which the sound equipment will be used.
- (4) The location where the sound equipment will be used.
- (5) Designation of the days of use and proposed hours of operation of the sound equipment.
- (6) A general description of the sound equipment, including the license number of any motor vehicle upon which it is to be operated.
- (7) The name(s) and phone number(s) of the person(s) responsible for the use of the permit.

If the application contains the required information and is accompanied by the required fee, and the proposed use of the sound equipment complies with the standards and other requirements of this section and all other applicable laws and ordinances, the zoning enforcement officer shall issue the appropriate permit.

- (e) *Sound level meter.* Recipient of a permit must have a sound level meter on site during the use of a permit when determined by staff to be a requirement of the permit, examples are concerts and street closure events. The equipment must monitor the amplified sound for compliance with the permit, be capable of producing read outs during the event and upon request 30 days after the event.

(f) *Application standards.* The following are general standards for the type of permit:

- (1) *Type "A" permit.* A type "A" permit may be issued for sound equipment emitting live music, reproduced music or human speech registering not more than 85 dBCs when measured at the real property boundary of the permitted property or at a distance of 50 feet from the sound equipment if issued in conjunction with a street closing. A type "A" permit may be issued only in areas of the city zoned for industrial, commercial and/or mixed use and only between the hours of 9:00 a.m. and 10:00 p.m., except the C-3, C-3A, C-3B, C-3R and DR zoned areas which shall be between the hours of 9:00 a.m. and 11:00 p.m. Sunday through Thursday, and between the hours of 9:00 a.m. and 12:30 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. A type "A" permit will be issued for a thirty-day period, commencing on the first of each month, to be used on eight days during the permitted time, with the days of use to be designated on the permit application.
- (2) *Type "B" permit—parks located in residential zones.* A type "B" permit may be used for sound equipment emitting music or human speech registering not more than 65 dBCs when measured at the real property boundary or at a distance of 50 feet from the sound equipment, whichever distance is closer to the sound equipment. Sound equipment permitted under a type "B" permit may be used only in public parks owned and operated by the city or public grounds owned and operated by another governmental body, located in a residentially zoned district from 9:00 a.m. to the time the park closes for events authorized and approved by the park and recreation board or other body having jurisdiction over the park or public grounds. A type "B" permit will be issued for one day up to one week with the days to be designated on the permit application.
- (3) *Type "C" permit—church or school grounds.* A type "C" permit may be issued for sound equipment emitting music or human speech registering not more than 65 dBCs when measured at the real property boundary or when measured at a distance