



Roll Call Number

Agenda Item Number

61

Date October 18, 2021

An Ordinance entitled, "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 Chapter 42 Article VI, Sections 42-246 and 42-258, relating to noise regulations",

(Council Communication No. 21-440)

presented.

Moved by _____ that this ordinance be considered and given first vote for passage.

FORM APPROVED:

(First of three required readings)



Judy K. Parks-Kruse
Assistant City Attorney

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

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.

_____ Mayor

_____ City Clerk

ORDINANCE NO. _____

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 Chapter 42 Article VI, Sections 42-246 and 42-258, relating to noise regulations.

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

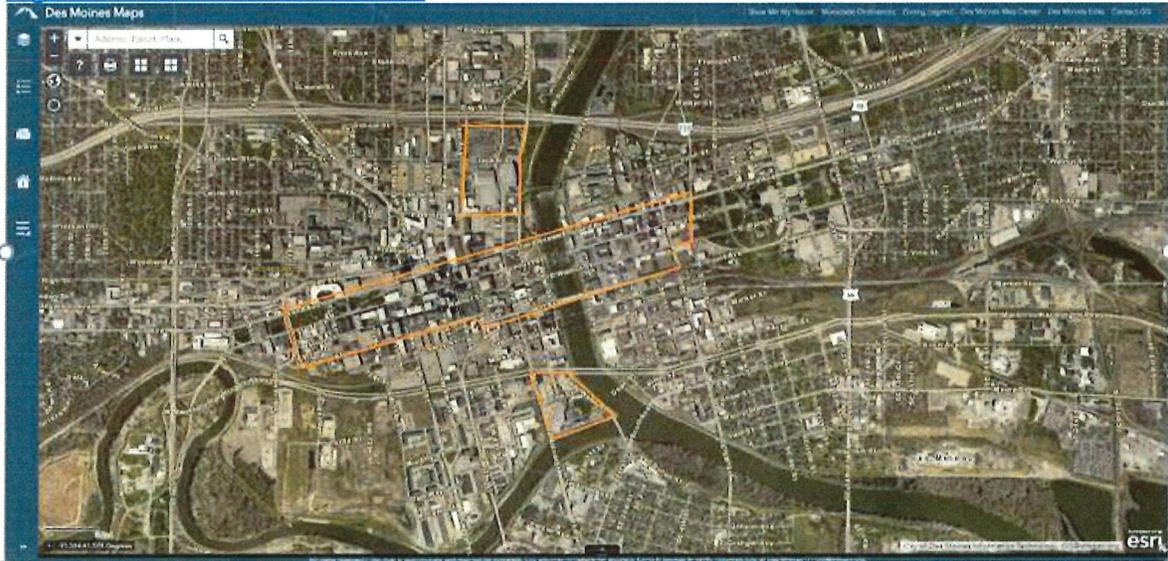
Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by amending Chapter 42 Article VI, Sections 42-246 and 42-258, relating to noise regulations, as follows:

Sec. 42-246. Definitions.

.....

“Downtown areas” shall mean the areas designated for sound permits described below as depicted in Figure 42-246.1 downtown areas.

Figure 42-246.1 Downtown areas.



Area 1(Top)–The area which is bounded by these streets: on the west by 5th Avenue, on the north by the southernmost Interstate 235 freeway entrance ramp roadway that runs east and west between 5th Avenue and 2nd Avenue, on the east by 2nd Avenue, and on the south by Park Street.

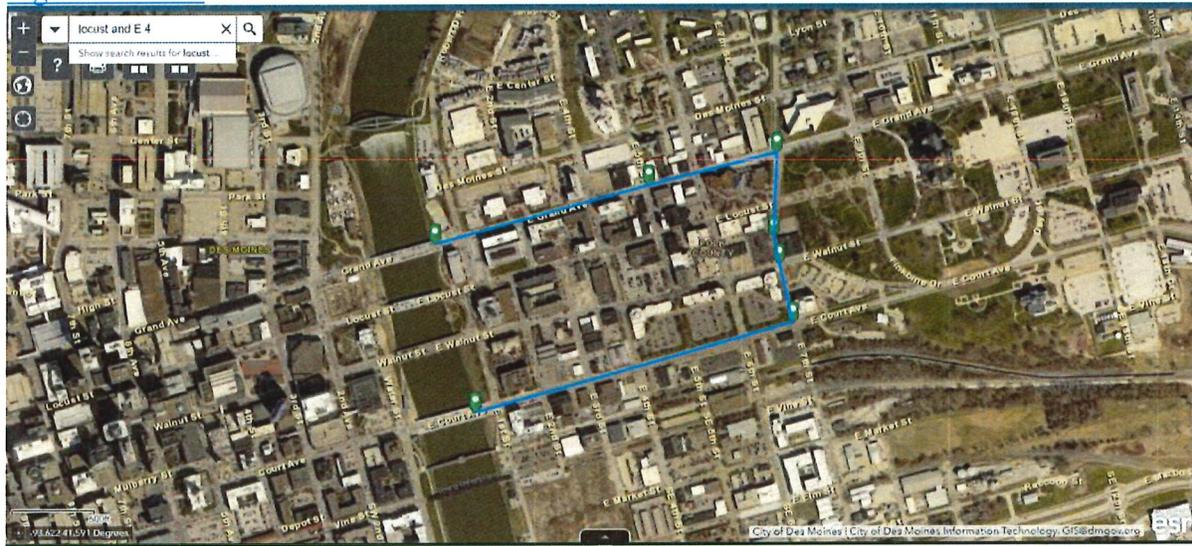
Area 2 (Middle) – The area bounded by these streets: on the west by 15th Street; on the north by Grand Avenue; on the east by the segment of Pennsylvania Avenue between Grand Avenue and East Walnut Avenue; on the southeast by the one block segment of East

Walnut East 6th Street that runs east-west between East 7th Street and East 6th Street, and on the southeast by the one block segment of East 6th Street that is between East Walnut Avenue and East Court Avenue; on the south by the segment of East Court Avenue between East 6th Street and 5th Avenue, by the one block segment of 5th Avenue between Court Avenue and Mulberry Street, and by the segment of Mulberry between 5th Avenue and 15th Street.

Area 3 (Bottom) – The area bounded as follows: on the south side by the north bank of the Raccoon River; on the east side by the west bank of the Des Moines River; on the north by the segment of East Martin Luther King, Jr. Parkway that runs east-west from the west bank of the Des Moines River to SW 3rd Street; and on the west by the segment of SW 3rd Street that runs north-south between East Martin Luther King, Jr. Parkway and the north bank of the Raccoon River.

“East Village Street Closures area” shall mean the areas designated for sound permits in East village in connection with the street closure event within the area depicted in Figure 42-246.2 East Village Street closure area boundaries.

Figure 42-246.2



“East Village noise control area” shall mean the area designated for sound permits for properties that are not within 250 feet of a residential dwelling, within the area depicted in Figure 42-246.3 East Village noise control area boundaries.

61

Figure 42-246.3



....

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

....

- (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 area 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, except for the East Village Street Closure area which shall be between the hours of 9:00 a.m. and 10:00 p.m. 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 of 50 feet from the sound equipment, whichever distance is closer to the sound equipment. Sound equipment permitted under a type “C” permit may be used only on church grounds, school grounds, or in conjunction with a school sponsored activity, from 9:00 a.m. to 10:00 p.m. for events authorized and approved by the church or school authorities having jurisdiction of the grounds. A type “C” permit will be issued for one day up to one week with the days to be designated on the permit application.
- (4) *Type “D” permit--residential events.* A type “D” 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 of the permitted property or 50 feet from the sound equipment, whichever distance is closer. Sound equipment permitted under a type “D” permit may be used only pursuant to a permitted street closing under chapter 102 of this Code, from 9:00 a.m. to 10:00 p.m. A type “D” permit will be issued for one day up to one week with the days to be designate on the permit application.
- (5) *Type “E” permit – background sound equipment.* A type “E” permit may be issued for a commercially zoned area, [mixed use zoned area](#), [East Village noise control area](#) or a commercially zoned PUD or PBP area for sound equipment to be used in an outdoor area in conjunction with an approved business use emitting music or human speech, excluding live music, registering not more than 65 dBCs, or below the ambient level, when measured at the property boundary, edge of designated seating area or 50 feet from the sound equipment whichever is closer. Sound equipment permitted under a type “E” permit may be used only during regular hours of business operation. A type “E” permit will be issued up to one year, [except in the East Village where the permits are limited to the hours between the business opening and 10:00 p.m.](#)
- (6) *Type “F” permit – Brenton Skating Plaza.* A type “F” permit may be issued for sound equipment in the Brenton Skating Plaza, in conjunction with a lease agreement entered into with the Parks and Recreation Department emitting music or human speech, registering not more than 112 dBCs, at the front of house which is established to be 75 feet from the sound. This permit is effective between the hours of 9:00 a.m. to 10:00 p.m. Sunday through Thursday and 9:00 a.m. to 11:00 p.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 “F” 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.](#)

- (7) *Type "G" permit-Special Event Live Performances.* A type "G" permit may be issued for sound amplification equipment to be used for live performances where the sound from music or human speech does not exceed 112 dBCs when measured 50 feet from the amplification equipment and meets all of the following criteria:
 - a. The special event or live performance is located in the Downtown areas and the East Village Street Closure areaa C-3, C-3A, C-3B, C-3R or RD-zoned district.
 - b. This type permit will only be issued two times per year per address to include a street closing abutting the sponsoring business and only if 30 days has elapsed from the effective date of a previous type "G" permit for the same location, however, if the street closing is sponsored by the Court Avenue Business Association, Downtown Community Alliance, Historic East Village, or any other community organization affiliated with businesses located in the ~~C-3, C-3A, C-3B, C-3R or RD-zoned districts~~downtown areas this type permit is not limited in number or time span.
 - c. If the applicant has no address in the ~~C-3, C-3A, C-3B, C-3R or RD-zoned district~~downtown areas, then either a business in the properly-zoned district~~area~~, or a community organization affiliated with businesses located in the ~~C-3, C-3A, C-3B, C-3R or RD-zoned districts~~downtown area must sponsor the event.
 - d. This type permit may not be issued if another type "G" permit has already been issued within 1,000 feet of a given location and covering the same time on any day. If the event has multiple stages in the designated event only one permit will be required.
 - e. When used in conjunction with a street closure this type permit will not be issued until the street use team approves the street closure.
 - f. This type permit must be obtained at least 7 days prior to the performance unless pending street use team approval.
 - g. This type permit is effective for up to three consecutive days and for the hours of 9:00 a.m. to 11:00 p.m. Sunday through Thursday and 9:00 a.m. to 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.
 - h. A variance may be sought in accordance with this article if any of the requirements for issuance of this type permit wish to be modified on a case by case basis.
- (8) *Type "H" permit-Farmer's Market.* A type "H" permit may be issued to Farmer's Markets which have a street closure for sound amplification equipment allowing music up to 85 dBCs for the duration of the street closure.
- (9) *Type "I" permit- Waterworks Park – Lauridsen Amphitheater.* A type "I" permit may be issued for amplification equipment for live performances held in Waterworks Park, at the Lauridsen Amphitheater, emitting music or human speech, at a level not greater than 114 dBCs measured at front of house which will be set at 125 feet from the stage. 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 11:00 p.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 "T" 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.

- (10) *Type "J" permit – night construction.* A type "J" permit may be issued for residential construction activities beyond the hours permitted under section 42-260. A type "J" permit may be issued for construction performed on behalf of a nonprofit or philanthropic organization where such construction activity is to be completed in an expedited manner pursuant to a construction schedule which has been approved by the community development director and has been determined to advance the overall welfare of city residents, provided that the residential structure is being built for occupation by low or moderate income persons. Application for a type "J" permit shall be processed pursuant to sections 42-264 through 42-267 of this article.
- (11) *Type "K" permit* may be issued for an event whose route is on city streets, trails and/or other public right-of-way with the permit to be valid one hour before the start of the event and at specifically approved locations along the route that would otherwise comply with all other provisions of this article.
- (12) *Type "L" permit* may be issued to a privately held recreational area more than 40 acres in area for outside events, emitting music or human speech at a level not greater than 112 dBCs when measured 50 feet from the amplification equipment. This permit is effective between the hours of 9:00 a.m. to 11:00 p.m. Sunday through Thursday and 9:00 a.m. to 12:30 a.m. on Friday and Saturday, the Sunday of Memorial Day weekend, the Sunday of Labor Day weekend, and the Fourth of July whenever it occurs on a Sunday. The stage and sound equipment for any live performances held shall be set up facing away from residential areas. A type "L" 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.
- (13) *Type "M" permit Zoo and Water Works Park.* A type "M" permit may be issued for amplification equipment for live performances held on the Blank Park Zoo Foundation Parcel and Water Works Park field, emitting music or human speech, 114 dBCs measured at front of house which will be 125 feet from the stage and limited to ~~at a level not greater than~~ 85 dBCs when measured at the nearest residence. A type "M" 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 11:00 p.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. The stage and sound equipment for any live performances held on the Blank Park Zoo Foundation Parcel shall be set up facing the south causing the sound to be directed towards the Blank Park Zoo and the Blank Golf Course. For the purpose of this subsection, Blank Park Zoo Foundation Parcel means the tract owned by Blank Park Zoo Foundation located south of Army Post Road and east of SW 9th Street, and designated for tax purposes as Polk County district/parcel number 120/00324-005-001. Additionally, the stage and sound equipment for any live performances held in the field in Waterworks Park shall be set up facing the northeast causing the

sound to be directed through the park and away from residential areas. A type “M” 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.

- (14) Type “N” permit – Simon Estes Riverfront Amphitheater. A type “N” permit may be issued for sound equipment to be used in the Simon Estes Riverfront Amphitheater in conjunction with a lease agreement entered into with the Parks and Recreation Department, emitting music or human speech, registering not more than 100 dBCs, when measured at the middle cement crosswalk. This permit is effective between the hours of 9:00 a.m. to 10:00 p.m. Sunday through Thursday and 9:00 a.m. to 11:00 p.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 “N” 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.

(15) Type “O” permit – Riverview Amphitheater. The type permit may be issued for sound equipment in the Riverview Amphitheater, in conjunction with a lease agreement entered into with the Parks and Recreation Department, emitting music or human speech, registering not more than 105 dBC 50 feet from the speakers which shall be the established front of house for purposes of noise control measurements. This permit is effective between the hours of 9:00 a.m. to 10:00 p.m. Sunday through Thursday and 9:00 a.m. to 11:00 p.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 “O” 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.

- (16) Type “P” Permit - Botanical Center. A type “P” permit may be issued for sound equipment on the Botanical Center grounds, registering not more than 112 dBCs, at the front of house which is established to be 75 feet from the sound. This permit is effective between the hours of 9:00 a.m. to 10:00 p.m. Sunday through Thursday and 9:00 a.m. to 11:00 p.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 “P” 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.

.....

Section 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:



Judy K. Parks-Kruse, Assistant City Attorney