



City of Madison

City of Madison
Madison, WI 53703
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Master

File Number: 17694

File ID: 17694

File Type: Ordinance

Status: Passed

Version: 3

Reference:

Controlling Body: HOUSING
COMMITTEE

Lead Referral: HOUSING
COMMITTEE

File Created Date : 03/03/2010

File Name: Noise amplification permits

Final Action: 09/21/2010

Title: 2nd SUBSTITUTE Creating Section 24.04(9) of the Madison General Ordinances to provide for private noise amplification permits, amending Sec. 1.08(3)(a) to establish bail amounts for this section, and amending Section 29.18(3)(a)1. to allow for an appeal of the denial of a permit.

Notes: 4701noise2ndSUB
INTRO'D FROM FLOOR

CC Agenda Date: 09/21/2010

Agenda Number: 66.

Sponsors: Bridget R. Maniaci

Enactment Date:

Attachments: Version 1, Version 2, Version 4 (3rd Sub)

Enactment Number: ORD-10-00093

Author: Maureen O'Brien

Hearing Date:

Entered by: dalthaus@cityofmadison.com

Published Date:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	COMMON COUNCIL	03/02/2010	Referred	HOUSING COMMITTEE		09/01/2010	Pass
	Action Text:	A motion was made by Ald. Maniaci, seconded by Ald. Bruer, to Referred to the HOUSING COMMITTEE. The motion passed by voice vote/other.					
	Notes:	Additional Referral: Public Safety Review Committee.					
1	Attorney's Office/Approval Group	03/03/2010	Refer	Clerk's Office			
	Action Text:	This Ordinance was Refer to the Clerk's Office					
	Notes:	Housing; Public Safety Review Committee					
1	HOUSING COMMITTEE	03/03/2010	Refer	PUBLIC SAFETY REVIEW COMMITTEE		04/15/2010	
	Action Text:	This Ordinance was Refer to the PUBLIC SAFETY REVIEW COMMITTEE					
	Notes:						
1	PUBLIC SAFETY REVIEW COMMITTEE	03/09/2010	Rerefer	PUBLIC SAFETY REVIEW COMMITTEE		04/15/2010	

Action Text: Due to lack of information on agenda item number 17694, Eli Judge made a motion to refer to another meeting date. Alder Kerr seconded the motion. The committee voted unanimously to refer to another meeting date.

Eli Judge made a motion to take agenda items #17757 and #17762 out of order due to the absence of presenters. Joel Plant seconded this motion. The group voted unanimously to take the agenda out of order.

Notes:

1	COMMON COUNCIL	03/16/2010	Referred	PUBLIC SAFETY REVIEW COMMITTEE	04/15/2010	Pass
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Action Text: A motion was made by Ald. Bruer, seconded by Ald. Verveer, to Referred to the PUBLIC SAFETY REVIEW COMMITTEE. The motion passed by voice vote/other.

Notes:

2	PUBLIC SAFETY REVIEW COMMITTEE	04/15/2010	Return to Lead with the Recommendation for Approval	HOUSING COMMITTEE	09/01/2010	Pass
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Action Text: Alder Skidmore made a motion for approval for discussion purposes and Eli Judge seconded the motion. Alder Bridget Maniaci shared some background on the private noise amplification ordinance. She indicated that there is currently no permit available from the City that a citizen can obtain for amplified noise on private property. This ordinance would allow the private owner to apply for a permit to host an event that has amplified noise. The permit does not govern other matters pertaining to usage of the property. She said that the permit would restrict time usage on Sunday-Thursday from 9am-9pm and on Friday and Saturday's from 9am-10pm. The duration for the permit would be for 3 consecutive hours. The permit would require seventy-five percent of units within 400 feet of the property to sign off on the permit. Alder Skidmore indicated that he thought this ordinance would be beneficial. Captain Wahl from the Madison Police Department indicated that the MPD Management Team supports the proposed ordinance.

This Ordinance was Return to Lead with the Recommendation for Approval to the COMMON COUNCIL

Notes:

Excused: 4 Bryon A. Eagon; Joel Plant; Julia S. Kerr and Matthew J. Phair

Ayes: 6 Paul E. Skidmore; Eli Judge; Tyrone W. Bell; Michael S. Scott; Bret M. Gundlach and Chan M. Stroman

2	HOUSING COMMITTEE	05/05/2010				
2	HOUSING COMMITTEE	06/02/2010				
2	HOUSING COMMITTEE	07/07/2010	Refer	HOUSING COMMITTEE	09/01/2010	Pass

Action Text: A motion was made by Shimanski, seconded by Brink, to Refer to the HOUSING COMMITTEE. The motion passed by voice vote/other.

Notes:

2	HOUSING COMMITTEE	08/04/2010				
3	HOUSING COMMITTEE	09/01/2010	RECOMMEND TO COUNCIL TO ADOPT WITH THE FOLLOWING RECOMMENDATIO NS - REPORT OF OFFICER			Pass

Action Text: A motion was made by Maniaci, seconded by Shimanski, to RECOMMEND TO COUNCIL TO ADOPT WITH THE FOLLOWING RECOMMENDATIONS - REPORT OF OFFICER: That within (9)(b)3 there is a requirement for landlord notification that a petition is being circulated. The motion passed by voice vote/other.

Notes: That within (9)(b)3 there is a requirement for landlord notification that a petition is being circulated.

3	COMMON COUNCIL	09/21/2010	Adopt With Friendly Amendment			Pass
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Action Text: A motion was made by Ald. King, seconded by Ald. Maniaci, to Adopt With Friendly Amendment. The motion passed by voice vote/other.

Notes: (b) 3. After "The petition shall be signed" add the words "or approved by email." ; (b) 4. After "the applicant shall deliver" add the words "personally or by email" ; (c) 3. Change "the previous 90 days" to "the previous 180 days."

Text of Legislative File 17694

Fiscal Note

There may be a minor increase in General Fund revenues derived from permit fees and potential fines. No appropriation is required.

Title

2nd SUBSTITUTE Creating Section 24.04(9) of the Madison General Ordinances to provide for private noise amplification permits, amending Sec. 1.08(3)(a) to establish bail amounts for this section, and amending Section 29.18(3)(a)1. to allow for an appeal of the denial of a permit.

Body

DRAFTER'S ANALYSIS: This amendment will create a permit for noise amplification on residential properties, establish bail deposit amounts for specific violations of the permit process, and provide for an appeal procedure from the denial of a permit.

The Common Council of the City of Madison do hereby ordain as follows:

1. Subsection (9) entitled "Private Noise Amplification Permit" of Section 24.04 entitled "Prohibition of Noises Disturbing the Public Peace" of the Madison General Ordinances is created to read as follows:

"(9) Private Noise Amplification Permit.

(a) Application Form. An application for a private noise amplification permit on properties of residential use shall be made in-person using the form provided by the Zoning Section staff. The application shall set forth the following information:

1. The name, address and telephone number of the applicant or applicants.
The applicant shall be the event sponsor. If the application is being filed by someone else on behalf of the event sponsor, that person shall also provide their name, title, address, and phone number.
2. In addition to the information required in subparagraph 1. above, if the applicant is not an individual, the full name and business or headquarters address of the organizational entity shall be provided. If the applicant is a corporation, limited liability company, or limited partnership, the name and address of the registered agent shall also be provided. If the entity is a general partnership, the name, and address of at least one (1) general partner shall be provided.
3. The name, address and telephone number of the person or persons who will be responsible for conducting and/or managing the event, if different from the individual(s) named in subparagraph 1. or 2. above. This person shall also provide a mobile phone, pager number, or other means for immediate contact during the event, and shall have the private noise amplification permit available for inspection at all times during the event.
4. The exact date, beginning and ending times and a brief description of the event.
5. The street address where the event will occur.
6. Any additional information that the Zoning Section staff finds reasonably necessary to a fair determination as to whether a permit should be issued.

(b) Application Process and Permit Requirements.

1. Application. A private noise amplification permit application, the application fee, the signature petition, a sample notification, and any additional materials shall be submitted to the Zoning Section staff. Only complete applications containing all of the information required under sub. (a) and this subparagraph shall be considered.
 2. Application Fee. A nonrefundable application fee of thirty dollars (\$30) shall be submitted when an address list for the signature petition and notification is generated by Zoning Section staff.
 3. Petition Required. The application shall be accompanied by a petition accurately describing the event to take place and designating the location, date and time of the event. The petition shall be signed by an adult resident of not less than seventy-five percent (75%) of all residential dwelling units and by a manager or owner of all non-residential occupancies within four hundred (400) feet, as identified in the address list generated by Zoning Section staff, of the address of the event. The petition form shall be included with the permit application and completed petitions shall be verified by Zoning Section staff.
 4. Notification Requirements. At least 48 hrs prior to the event the applicant shall deliver written notices announcing the event location, date, and time, to each residential and commercial unit within four hundred (400) feet, as identified in the address list generated by Zoning Section staff. If the applicant is not the owner of the property at which the event will occur written notice must also be delivered to the applicant's landlord. The notices required by this subparagraph shall be in addition to the petition required under subparagraph. 3., and a sample of such notice shall be included with the permit application.
 5. Deadline for Applications. An application for a private noise amplification permit shall be submitted not less than 10 days prior to the date of the proposed event.
 6. Sound Level. The level of any noise produced pursuant to this permit shall not be plainly audible under normal conditions from a distance of more than 400 feet.
 7. Time Period. A private noise amplification permit shall be valid for a single date, and for a time period of no more than three consecutive hours.
 8. Permissible Hours. A private noise amplification permit shall only be approved for hours between 9 a.m. and 9 p.m. Sunday through Thursday, and between 9 a.m. and 10 p.m. Friday and Saturday.
- (c) Standards for Issuance. The following standards established within this subdivision, in addition to any other mandatory requirements within Sec. 24.04(9) or elsewhere in these Ordinances, and as amended from time to time, shall govern the issuance of private noise amplification permits. A private noise amplification permit shall be issued to an applicant unless:
1. A private noise amplification permit has been granted for the same date for two residences within 400 feet of the listed address.
 2. The applicant has provided fraudulent information as part of the application.
 3. A private noise amplification permit was issued for the listed address within the previous 90 days.
 4. Within the past 2 years, the applicant was granted a private noise amplification permit which was terminated pursuant to subdivision (f).
- (d) Appeal Procedure. Any applicant may appeal the denial of a private noise amplification permit to the Board of Building Code, Fire Code, Conveyance Code, and Licensing Appeals according to the procedures set forth in Sec.

29.18, MGO.

- (e) Severability. Each provision or requirement of any portion of this subsection shall be considered separable, and the invalidity of any portion of this subsection by a court of competent jurisdiction shall not affect the validity or enforceability of any other portion.
- (f) Termination of a Private Noise Amplification Permit. A private noise amplification permit for an event in progress may be terminated by the Chief of Police or designee if termination is a reasonable and necessary response in the face of imminent danger or threat to public safety, if the safety of the public is imminently endangered by activities generated during the event, or if there is a violation of any condition of the permit such that the standards of issuance are no longer met. This specifically includes a violation of the maximum permissible sound level.
- (g) Penalties.
 - 1. A violation of the maximum permissible sound level shall be considered a violation of Sec. 24.04(2).
 - 2. An applicant who submits a petition containing fraudulent information shall be subject to a forfeiture of not less than two hundred and fifty dollars (\$250) nor more than five hundred dollars (\$500).
 - 3. An applicant who fails to follow the notification procedure under (b)4. shall be subject to a forfeiture of not less than two hundred and fifty dollars (\$250) nor more than five hundred dollars (\$500)."

1. Subdivision (a) of Subsection (3) entitled "Schedule of Deposits" of Section 1.08 entitled "Issuance of Citations for Violations of Certain Ordinances and Providing a Schedule of Cash Deposits" of the Madison General Ordinances is amended by creating therein the following:

"Submission of petition containing fraudulent information.	24.04(9)(j)2.	\$375
Failure to follow notification procedure.	24.04(9)(j)3.	\$375"

3. Subparagraph 1. of Subdivision (a) entitled "Appeals" of Subsection (3) entitled "Duties" of Section 29.18 entitled "Board of Building Code, Fire Code, Conveyance Code and Licensing Appeals" is amended as follows:

"1. The owner of a building or structure or any other person who is aggrieved and directly affected may appeal from decisions or orders of the Fire Chief, from a denial of the issuance of a private noise amplification permit, from Building Code Orders, or from a decision of the Director of the Building Inspection Division refusing to grant approval of a plan, modification of or variance from the provisions of Madison General Ordinances Chapters 27, 29, and 40 covering the manner of construction or materials to be used in the erection, alteration, or repair of a building or structure, or the wrecking or demolition of a building or structure determined to be unsound pursuant to Sec. 28.04(22)(d)1.a. of the Madison General Ordinances, to the Board of Building Code, Fire Code, Conveyance Code and Licensing Appeals."