

CITY OF MADISON, WISCONSIN

3rd SUBSTITUTE ORDINANCE _____

PRESENTED March 2, 2010 TITLE ONLY
 REFERRED INTRO'D FROM FLOOR
Housing; PSRC

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.

LEGISTAR NO. 17694

Drafted by: Maureen O'Brien

Date: September 21, 2010

SPONSOR: Alder Maniaci

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.

Approved as to form:

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. At the time of initial application Zoning Section staff shall mail notification to the landlord of the property at which the event will occur, announcing that an application has been made.
 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)."

2. 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."