

ORDINANCE NO. 14,752

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, and amended by Ordinance No. 14,746 passed February 25, 2006 by amending paragraphs (1) and (5) and adding and enacting new paragraphs (6), (7) and (8) to Section 42-258(E) and amending paragraph (1) of Section 42-258(H) and amending paragraph (C) of Section 42-259 thereof, relating to sound equipment, sound amplifying equipment and motorized vehicles.

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, and amended by Ordinance No. 14,746 passed February 25, 2008 is hereby amended amending paragraphs (1) and (5) and adding and enacting new paragraphs (6), (7) and (8) to Section 42-258(E) and amending paragraph (1) of Section 42-258(H) and amending paragraph (C) of Section 42-259 thereof, relating to sound equipment, sound amplifying equipment and motorized vehicles, as follows:

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

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

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- (1) *Type "A" permit.* A type "A" permit may be issued for sound equipment emitting music or human speech registering not more than 85 dBAs 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 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 to be used on eight days during the permitted time, with the days of use to be designated on the permit application.

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- (5) *Type "E" permit - background sound equipment.* A type "E" permit may be issued for a commercially zoned 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 dBAs, or below the ambient level, when measured at the property boundary, edge of designated seating area or 50 feet from the sound equipment which ever 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.
- (6) Type "F" permit - Simon Estes Riverfront Amphitheater. A type "F" 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 dBAs, when measured at the middle cement crosswalk area of the amphitheater. 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, Labor Day weekend and the Fourth of July should it fall on a Sunday.
- (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 100 dBAs 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 a 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 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, then either a business in the properly zoned district, or a community organization affiliated with businesses located in the C-3, C-3A, C-3B, C-3R or RD zoned districts 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.
- 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 one or two days in succession 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 dBA's for the duration of the street closure.

(H) Denial or revocation.

- (1) *Denial of sound permit.* The director of the community development department may, upon hearing, deny an application for a sound permit and shall forward the information relied upon to the city clerk to schedule a hearing for consideration of denial using the following criteria and standards:
- a. Whether police have stopped activities sponsored by the same applicant or in the same location for public safety purposes such as riot, disorderly conduct or other crimes;
 - b. Whether the sponsor, applicant, or their employees have violated the Des Moines Municipal Code at past events requiring a sound permit;
 - c. Whether the applicant(s) have paid the city all fees due and owing under any chapter of the Des Moines Municipal Code; and
 - d. If any person responsible for monitoring the terms and conditions of the sound permit at the premises has been issued two or more notices of violation of this article in a previous 12 month period.

Sec. 42-259. Motorized vehicles.

- (C) (1) No person shall operate a recreational vehicle or permit the operation of one or more recreational vehicles, individually or in a group, or in an organized racing event on public or private property in such a manner that the sound level exceeds that set forth in Sec.42-254 (A) Table 1.
- (2) No person shall operate or permit the operation of any recreational vehicle(s), on public or private land between the hours of 10:30 p.m. and 9:00 a.m.
- (3) This section shall not apply to recreational vehicles when legally operated upon the public streets.

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

FORM APPROVED:

Douglas P. Philip, Assistant City Attorney

T.M. Franklin Cownie, Mayor

Attest:

I, Diane Rauh, City Clerk of the City of Des Moines, Iowa, hereby certify that the above and foregoing is a true copy of an ordinance (Roll Call No. 08-600), passed by the City Council of said City at a meeting held April 7, 2008 signed by the Mayor on April 7, 2008 and published as provided by law in the Business Record on April 21, 2008. Authorized by Publication Order No.6070.

Diane Rauh, City Clerk