

117. SOUND AMPLIFICATION DEVICES

117.01. Sound Device or Apparatus. “Sound device or apparatus” means any radio device or apparatus for the amplification of any sounds from any radio, phonograph or other sound-making or sound-producing device, or any device or apparatus for the reproduction or amplification of the human voice or other sounds.

Subd. 2. “Background Music” means subdued and unobtrusive music played: (a) no louder than 60 decibels or the ambient street level noise; and (b) as an accompaniment to, or for the purpose of creating a pleasant atmosphere for, an activity or a public place. (3962, 4/19/10)

117.011. Purpose and Intent. Subdivision 1. The Common Council determines that the creation of excessive noise and sound within the City limits of Rochester is a detriment to the public health, safety and welfare and the quality of life of the citizens of the City. Citizens of the City have a right to an environment free from excessive noise and sound that may jeopardize their health, safety or welfare, or degrade their quality of life. It is the City’s objective to promote the peace and quiet enjoyment of residential neighborhoods.

Subd. 2. At the same time, the Common Council recognizes the desire of many of the City’s citizens to fully enjoy the outdoors especially when the weather permits for outdoor events. Citizens wish to take advantage of our short-lived warm weather by attending and participating in outdoor musical concerts, parties and other events. These outdoor events add to the quality of life in this City and help citizens endure our winter weather by looking forward to warmer weather.

Subd. 3. Accordingly, this chapter represents the Common Council’s balancing of the City’s citizens’ interests in a quiet and peaceful community and their interests in enjoying the City’s outdoor environment during times of good weather. Ultimately, the Council seeks to preserve, protect and promote the City’s citizens’ health, safety, welfare and quality of life. (3810, 3/19/07)

117.02. Section Repealed by Ordinance #3286 – November 16, 1999.

117.03. Permit Required. No person shall use or operate any sound device or apparatus in, on, near or adjacent to any public street, park, or place, or near or adjacent to a residential area, unless such person shall first obtain a permit to be issued by the council in the manner hereinafter prescribed, and unless such person shall comply with the provisions of this chapter, and the terms and conditions prescribed in such permit. For purposes of this Chapter, the term “adjacent to a residential area” shall mean any location that directly abuts a residential area or is separated from the residential area by only a public or private right of way.

117.04. Application for Permit. Each applicant for a permit shall file a written application with the city clerk for submission to the city council at its next regularly

scheduled meeting. Such application must be received by the City Clerk at least 30 days prior to the event. The Council may waive this filing deadline upon the applicant's showing of good cause or reasonable excuse for the late filing; the absence of any prejudice to the public's health, safety and welfare; and the Council's ability to hold a public hearing concerning the application prior to the scheduled event. The application must be accompanied by payment of the license fee as established by city council resolution and contain the following information:

- A. The location for which the permit is sought;
- B. The dates and times of the event for which the permit is sought;
- C. The name, address and telephone number (land line and wireless) of the applicant and the contact person named by the applicant to implement the permit and to be on site during the event for which the permit is sought. The contact person must be responsible for permit's compliance with the laws of this chapter and any terms or conditions imposed upon the approval of the permit;
- D. A description of the facilities and arrangements that are in place for the handling of food, medical needs, sanitation, fire services, garbage disposal, and adequate security and police protection for the event including crowd control, traffic control and police protection for adjacent property owners;
- E. A sketch, site plan, stage plot or other description of the land and premises to be used for the event for which the permit is sought;
- F. A description of the entertainment intended to be provided, including the type of entertainment, the location where it is to be staged or provided, the dates and time frames during which entertainment is to be provided, a statement as to the maximum number of persons who will be permitted to be in attendance on any particular day and a description of the means by which attendance will be limited to such number of persons;
- G. A description of the means and methods proposed by the applicant to prevent noise from the event from unreasonably disturbing those persons who live or work in the vicinity of the event;
- H. A statement from the applicant indicating the applicant has obtained a copy of this chapter, has read and does understand the regulations found within this chapter, and does intend to

comply with the regulations found within this chapter and any conditions of approval imposed upon the permit that might be granted in response to his application;

- I. A statement from the applicant as to whether the applicant requests the maximum sound measurement pursuant to section 117.06, subdivision 2, or the time restriction pursuant to section 117.06, subdivision 3, and the reasons for such request; and
- J. Such other information that the City Clerk, City Administrator, Chief of Police, Fire Chief, Public Works Director, Planning Director or City Attorney, or their designees, may need in order to carry out the purposes of this chapter.

(3810, 3/19/07; 3928, 7/6/09; 3945, 10/19/09)

117.05. Issuance of Permit: Terms. Subdivision 1. The Council must consider each application for a sound amplification permit in light of the all of the following criteria:

- A. The volume, frequency and type of sound to be generated;
- B. The day of the week, time of day and duration of the sound to be generated;
- C. The character and nature of land uses underlying and adjacent to the event generating the noise;
- D. The proximity and compatibility of the event generating the noise to residential, religious or medical facilities, or the general public;
- E. The sufficiency of the arrangement made to provide adequate security, garbage disposal, crowd control and parking control; and
- F. The sufficiency of means and methods proposed by the applicant to prevent noise from the event from unreasonably disturbing those persons who live or work in the vicinity of the event.

(3945, 10/19/09)

Subd. 2. The City must not issue any permit to any person who has, during the past 12 months, failed to observe the terms and conditions of any previously issued sound amplification device permit or who has had his or her right to apply for and receive a permit suspended or revoked under section 117.08, subd. 2. The City must not issue any permit for any location where, during the past 12 months, there has been an incident involving the failure to observe the terms and

conditions of any previously issued sound amplification device permit.

Subd. 3. The Council may impose conditions upon its issuance of any permit that are reasonably related to the satisfaction of the provisions or the furtherance of the objectives of this chapter including the criteria listed in subdivision 1 of this section. Those conditions may include a time restriction on the amplified sound for a permit issued pursuant to section 117.06, subd. 2. (3965, 5/3/10)

Subd. 4. The permittee shall keep the permit in possession at all times at the location where sound amplification is being made under the authority of the permit, and shall present the permit upon demand by a law enforcement officer. (3810, 3/19/07)

117.06. Maximum Sound Measurement and Time Restriction. Subdivision 1. The measurement of sound pressure levels shall be made with a Type I or Type II decibel meter, as defined by the American National Standards Institute Specifications, Section 1.4-1971, using the A-weighted, fast response scale. The decibel meter microphone shall be placed three to five feet above ground level and positioned so as not to create any unnatural enhancement or diminution of the measured sound pressure level.

Subd. 2. Except as provided in subdivision 3, no person shall exceed the maximum allowable sound pressure level. The maximum allowable sound pressure level is 85 decibels measured at the property line or venue boundary.

Subd. 3 The Council, in issuing the Permit and in consideration of the criteria provided in section 117.05, subdivision 1, may waive the maximum allowable sound pressure level provided in subdivision 2 and replace it with a restriction requiring the amplified sound to terminate no later than 10:30 p.m., on the day of each event covered by the Permit. If applicable under this subdivision, no person shall allow the amplified sound to continue beyond 10:30 p.m. (3810, 3/19/07)

117.07. Exceptions. This chapter shall not apply to the use or operation of any sound device or apparatus:

- A. At a location that is not in, on, near or adjacent to any public street, park, place, or near or adjacent to a residential area;
- B. By any church or synagogue on or within its own premises, in connection with the religious rites or ceremonies of such church or synagogue;
- C. By the police and fire departments of the City in the performance of their official duties;
- D. By a public or private school on school grounds;

- E. In musical presentations made or sponsored by the City's music department;
 - F. By licensed auctioneers during the course of an auction event;
 - G. As background music no later than 10:00 p.m.; or
 - H. As specifically allowed under any other provision of this Code.
- (3962, 4/19/10)

117.08. Suspension or Revocation of Permit. Subdivision 1. Any sound amplification device permit issued by the City may be suspended or revoked upon a finding that the permittee, during the term of the permit, failed to comply with any provision of this chapter, any directive or order issued by a law enforcement officer, any condition imposed upon the issuance of the permit, any term or provision stated upon the permit, or any applicable federal or state statute, administrative rule, or city or county ordinance.

Subd. 2. A person's right to apply for and receive a sound amplification device permit may be suspended or revoked upon a finding that the person has failed to comply with any provision of this chapter, any directive or order issued by a law enforcement officer, any condition imposed upon the issuance of the permit, any term or provision stated upon the permit, or any other applicable federal or state statute, administrative rule, or city or county ordinance.

Subd. 3. Any suspension or revocation of a permit must occur only after a public hearing has occurred before the Common Council with notice and an opportunity to be heard provided to the permittee or person who is the subject of the hearing. (3810, 3/19/07)

117.09. Permittee's Presence On Location. The permittee shall keep the permit in possession at all times at the location where sound amplification is occurring under the authority of the permit, and shall present the permit upon demand by a law enforcement officer. The contact person, as required to be named in the application form pursuant to section 117.04 (C), must be physically on location during the time the permit is effective or must have made some other arrangement with and satisfactory to a law enforcement officer. (3810, 3/19/07)

117.10. Penalties. Subdivision 1. No person shall violate any provision of this chapter. No person shall violate any directive or order issued by a law enforcement officer in the implementation of this chapter, any condition imposed upon the issuance of the permit, or any term or provision stated upon the permit. A violation of this subdivision is punishable as a misdemeanor.

Subd. 2. Upon a finding that a permittee or person has violated any provision of this chapter, any directive or order issued by a law enforcement officer in the implementation of this chapter, any condition imposed upon the issuance of the permit, or any term or provision stated upon the permit, the Council may suspend or revoke the permit or the person's ability to obtain a permit pursuant to section 117.08.

Subd. 3. No person may be prosecuted for any violation of section 85.10 if, at the time of the alleged violation, a permit had been issued to the person under this chapter.

Subd. 4. The penalties provided for in this section are cumulative.
(3810, 3/19/07)

(917, 4/2/56; 2822, 6/2/92; 2889, 8/3/93; 3286, 11/16/99; 3569, 6/16/03; 3761, 4/17/06;
3810, 3/19/07; 3928, 7/6/09; 3945, 10/19/09; 3962, 4/19/10; 3965, 5/3/10)