

**Public Safety and Regulatory Services Committee
Licenses and Consumer Services
Staff Report
Noise
December 3, 2008**

As a result of increased mixed zoning uses and increased number of liquor establishments providing entertainment there has been an increased number of complaints filed with the Council office regarding noise. There are 301 licensed establishments that have amplified entertainment (class C-2 or higher). City Council Member Hofstede requested staff to investigate an amendment to Title 13, Chapter 259 of the Minneapolis Code of Ordinances relating to Licenses and Business Regulations, establishing requirement for qualifying license establishments to operate in compliance with noise standards imposed by Chapter 389 and to conduct required sound evaluation. In addition to amend Title 14, Chapter 360 and 362 of the Minneapolis Code of Ordinances relating to *Liquor and Beer: Liquor Licenses*, Music not to disturb residents and amending regulations addressing content of required license application.

City Council Member Gordon requested staff from Minneapolis Environmental Management to amend Chapter 389 relating to Noise with measurable standards for noise violations.

RELATED MINNESOTA STATUTES, CITY CHARTER, ORDINANCES and ZONING CODE REQUIREMENTS

360.55 Music not to disturb residents.

This ordinance was deemed constitutionally vague in a recent court case and is no longer being applied.

259.250. Business license management responsibilities.

This ordinance details the responsibilities of licensed businesses to follow City, State and Federal. A section in the ordinance prohibits violations of noisy assemblies.

362.120. Contents of application.

This ordinance detail the contents of an application made for liquor licenses, for example level of entertainment, ownership and whether the applicant has experience in the liquor industry.

RELATED POLICYS

Amplified Sound - The License Division utilizes the following policy:

Definition

Any musical instrument in which the sound is increased (both intensity and sound) through electronic or other mechanical means.

Applied Policy

Electronic keyboards as well as instruments that are connected into an establishment's microphone or sound system is considered amplified. Vocalists can use a microphone, since they are not using a musical instrument; including karaoke and radios.

OTHER CITIES

We examined 10 other cities on their ordinances related to noise and noise violations. Of the 10 cities, 6 cities had specific ordinances regulating noise. Four cities had measurable standards to regulate noise and they used the A-scale. Madison Wisconsin requires businesses that provide entertainment to submit a business plan that details how the business will comply with noise regulations.

INDUSTRY IMPACT

The proposed ordinance amendments were discussed at the Oct 21, 2008 Bar Watch Meeting and the Oct 14, 2008 LINC (Liquor Industry and the Community) meeting. The downtown businesses were concerned that the standard was too high for an entertainment district. They proposed a two tier standard for noise violations: one for downtown and one for establishments located near residential areas. Otherwise the Industry supports the ordinances.

During the 2008 Republican National Convention, Licensees that applied for the 4 a.m. closure permit were requested to submit a similar business plan that is being proposed that requested their plans to reduce noise. All licensees were able to comply with the request. During the Convention our office or 311 did not record any complaints we did not have a noise complaint as a result of the 4 a.m. permit.

COMMUNITY IMPACT

The community would benefit from a measurable noise standard and a requirement for businesses to implement proactive strategies to address noise. This predictably will minimize the number of complaints and improve enforcement effectiveness.

STAFFING IMPACT

Requiring license applicants to submit additional application materials may increase the time required for processing applications. However, this may have a far greater impact on staff effectiveness because less time will be spent on complaints with measurable enforcement standards.

RECOMMENDATIONS

Staff is recommending the Council repeal 360.55 and 267.990 based on the court findings that these ordinances are constitutionally vague.

One of License Division's on going initiatives is to streamline and consolidate ordinances. Rather than replacing 360.55 staff is recommending that Council amended ordinance language under 259.250 that will prohibit violating the noise standards. This amendment would then give a measurable standard that all licensed business under title 13 and 14 are regulated.

It is with this same goal in mind that staff is recommending that Council adopt an ordinance under 259.11 that allows the Deputy Director to request a business plan from any business under title 13 and 14 that may require thoughtful consideration in regards to security, hours of operation and how the applicant will maintain the orderly appearance and operation of the premises with respect to litter and noise. Staff has also prepared an ordinance amendment that specifically addresses liquor applications under 362.120.

