

Date: July 1, 2020

To: Legislative Hearing Officer
310 City Hall
15 West Kellogg Blvd
Saint Paul, MN 55102

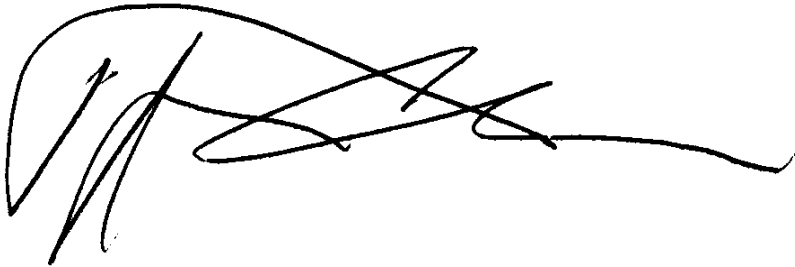
RE: Application for license 202 0000 1393 for Liquor On Sale, 2 AM Closing including an Outdoor Service Area (Patio) and Entertainment (B)

We will be pleased to have the business open again. We are concerned about noise the expanded patio might generate as that has been a problem in the past.

We feel that the owner Brian Ingram should sign a statement saying he understands and will adhere to the limitations in the zoning ordinance: Chapter 293. - Noise Regulations^[7] and will make known those limitations to the people using and renting the deck.

If he or Bing Enterprises LLC is unwilling to adhere to these modest limitations we urge you to turn down this application.

Sincerely,

A handwritten signature in black ink, appearing to read 'Peter Carlsen', with a long horizontal flourish extending to the right.

Peter Carlsen
482 Dayton Avenue, residence
524 Selby Avenue, business
St. Paul, Minnesota

Phone 651 227-4576
Email peterc@carlsenfrank.com

Attachment
Chapter 293 of St. Paul Zoning Ordinance

Chapter 293. - Noise Regulations^[7]

Footnotes:

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Administrative Code reference—Procedure for public hearing regarding public nuisances, Ch. 91.

Sec. 293.01. - Definitions.

As used in this chapter, the following terms shall have the meanings ascribed to them in this section.

- (1) *PCA definitions adopted.* Pursuant to Minnesota Statutes, Section 471.62, the definitions contained in the Minnesota Pollution Control Agency Air Quality Division Noise Pollution Control Rules, Section 7030.0020, are hereby adopted by reference.
- (2) *Construction.* Any site preparation, assembly, erection, substantial repair, alteration or similar action, but excluding demolition.
- (3) *Demolition.* Dismantling or intentional removal of structures, utilities, public or private right-of-way surfaces or similar property.
- (4) *Department.* The city department of safety and inspections.
- (5) *Domestic power tools.* Any mechanically powered saw, drill, sander, grinder, lawn or garden tool, lawn mower, or powered snow removal equipment, or other similar device commonly used outdoors, except for the manufacture, commercial repair or prolonged testing of such tools.
- (6) *Sound level (or noise level).* The A-weighted sound pressure level, expressed in dBA, obtained by the use of a sound level meter having characteristics as specified in the ANSI Standard S1.4-1983.

(Ord. No. 16915, 5-20-82; Ord. No. 17448, § 1, 4-28-87; Ord. No. 17586, § 1, 9-1-88; C.F. No. 02-653, § 1, 8-14-02; C.F. No. 07-149, § 68, 3-28-07)

Sec. 293.02. - Noise as a public nuisance.

(a) *Generally.*

- (1) It shall be unlawful for any person to make, continue, permit or cause to be made, continued or permitted within the city, any loud, disturbing or excessive noise which would be likely to cause significant discomfort or annoyance to a reasonable person of ordinary sensitivities in the area.
- (2) The characteristics and conditions which shall be considered in determining whether a noise is loud, disturbing or excessive for the purposes of paragraph (a) of this section, shall include, without limitation, the following:
 - a. The time of day or night when the noise occurs.
 - b. The duration of the noise.
 - c. The proximity of the noise to a sleeping facility and/or a residential area.
 - d. The land use, nature and zoning of the area from which the noise emanates and the area where it is perceived.
 - e. The number of people and their activities that are affected or are likely to be affected by the noise.

f. The sound peak pressure level of the noise, in comparison to the level of ambient noise.

(b) *Noisy assembly.*

- (1) *Defined.* The term "noisy assembly" shall mean a gathering of more than one person in a residentially zoned or used area or building that would be likely to cause significant discomfort or annoyance to a reasonable person of ordinary sensitivities present in the area, considering the time of day and the residential character of the area, due to loud, disturbing or excessive noise.
- (2) *Permitting noisy assembly.* It shall be a violation of this section for any person having dominion, care or control of a residentially zoned or used area or building knowingly to permit a noisy assembly.
- (3) *Remaining at a noisy assembly.* It shall be a violation of this section to participate in, visit or remain at a gathering knowing or having reason to know that the gathering is a noisy assembly, except any person(s) who has/have come to the gathering for the sole purpose of abating the noisy assembly.

(c) *Animals.* It shall be a violation of this section to own, keep, have in possession or harbor any animal or animals which make any noise to the reasonable annoyance of another person or persons. The phrase "to the reasonable annoyance of another person or persons" shall include, but is not limited to, the creation of any noise by any animal or animals which can be heard by any person, including the animal control officer or a law enforcement officer, from a location outside of the building or premises where the animal or animals are located and which animal noise occurs repeatedly over at least a five-minute period of time with no more than a one-minute lapse of time between each animal noise during the five-minute period.

(d) *Amplified sound.* It shall be a violation of this section to play, operate or permit the playing, use or operation of a radio, loud speaker, or other device used for the amplification of sound, unless otherwise permitted by law, located inside or outside, the sound of which carries to points of habitation or adjacent properties, and is audible above the level of conversational speech at a distance of fifty (50) feet or more from the point of origin of the amplified sound.

(e) *Motor vehicles.*

- (1) *Generally.* It shall be a violation of this section to use any automobile, truck, motorcycle or other vehicle which causes or would be likely to cause significant discomfort or annoyance to a reasonable person of ordinary sensitivities present in the area due to loud, disturbing or excessive noise.
- (2) *Amplified sound from motor vehicles.* It shall be a violation of this section to play, operate or permit the playing, use or operation of any radio, tape player, disc player, loud speaker or other electronic device used for the amplification of music or other entertainment, which is located within a motor vehicle on a public street or alley, or in a commercial or residential parking facility, which is audible by any person from a distance of fifty (50) feet or more from the motor vehicle. When sound violating this section is produced or reproduced by any such device that is located in a motor vehicle, the motor vehicle's owner, if present when the violation occurs, is guilty of the violation. If the motor vehicle's owner is not present at the time of the violation, the person who has dominion, care or control of the motor vehicle at the time of the violation is guilty of the violation. In addition to an owner or a driver, any person who controls or assists with the production, reproduction, or amplification of sound in violation of this section is guilty of the violation.
- (3) *Horns and other signals.* It shall be a violation of this section to sound any horn or signal device on an automobile, motorcycle, bus or other vehicle, except as a danger signal or traffic warning, which would be likely to cause significant discomfort or annoyance to a reasonable person of ordinary sensitivities in the area.

(4) *Application of the MPCA rules.* No person shall operate a motor vehicle in the city in violation of the motor vehicle noise limits of the Minnesota Pollution Control Agency Rules, Sections 7030.1000 through 7030.1600.

(f) *Penalties.*

(1) A violation of any section of this chapter is a misdemeanor, and a sentence of not more than ninety (90) days in jail, or a fine of not more than one thousand dollars (\$1,000.00), or both, may be imposed.

a. Each day a violation of this ordinance is committed or permitted to continue shall constitute a separate offense and may be punished separately.

(C.F. No. 02-653, § 1, 8-14-02; C.F. No. 05-264, § 2, 4-27-05; Ord 15-67, 12-2-15; Ord 15-70, 12-9-15)

Editor's note— C.F. No. 02-653, § 1, adopted August 14, 2002, amended the Code by repealing former §§ 293.02—293.04, and adding a new § 293.02. Former §§ 293.02—293.04 pertained to noisy assembly; motor vehicles; and horns and audible signaling, respectively; and derived from Ord. No. 16915, adopted May 20, 1982; and Ord. No. 17448, adopted April 28, 1987.

Sec. 293.03. - Reserved.

Note— See editor's note, § 293.02.

Sec. 293.04. - Railroad locomotives, sounding whistles.

(a) *Statement of legislative finding intent and purpose.* The council finds that the sounding of railroad locomotive whistles at grade crossings is on the increase. The increased use of railroad locomotive whistles at grade crossings throughout the city and especially in residential neighborhoods near railroad grade crossings has created an atmosphere that is conducive neither to the quiet enjoyment of property nor to the peace and dignity of the city. For the purposes of protecting and promoting the safety, welfare and convenience of the public, and the safety, welfare and convenience of the railroad employees operating locomotives in the city, and in conformance with Minn. Stat. §§ 219.567, the council finds it necessary to establish the following noise regulation pertaining to railroad locomotive whistles.

(b) *Unnecessarily sounding whistles.* No person shall sound or blow any whistle of any locomotive within the city limits, except as a warning of imminent and immediate danger to life or property. The sounding of any locomotive whistle shall be prima facie evidence that it was sounded by the engineer operating the locomotive.

(C.F. No. 98-522, § 1, 7-8-98; C.F. No. 02-653, § 1, 8-14-02)

Editor's note— C.F. No. 02-653, § 1, adopted August 14, 2002, amended the Code by renumbering former § 293.04.1 as a new § 293.04.

Sec. 293.05. - Exhaust.

No person shall discharge or permit the discharge of any steam engine, stationary internal combustion engine, motor boat, motor vehicle or snowmobile except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with any applicable state laws and regulations.

(Ord. No. 16915, 5-20-82; Ord. No. 17448, § 1, 4-28-87)

Sec. 293.06. - Domestic power tools.

No person shall operate any domestic power tool between the hours of 10:00 p.m. and 7:00 a.m. in a distinctly and loudly audible manner as to unreasonably disturb the peace, quiet and comfort of any person nearby. Operation of a domestic power tool during those hours in such a manner as to be plainly audible at the property line of a structure or building in which it is located, in the hallway or apartment adjacent, or at a distance of fifty (50) feet if the source is located outside a structure or building, shall be prima facie evidence of a violation of this section.

(Ord. No. 16915, 5-20-82; Ord. No. 17448, § 1, 4-28-87; C.F. No. 02-653, § 1, 8-14-02)

Editor's note— C.F. No. 02-653, § 1, adopted August 14, 2002, amended the Code by repealing former §§ 293.06 and 293.07, and renumbering former §§ 293.08—293.11 as new §§ 293.06—293.09. Former §§ 293.06 and 293.07 pertained to defective vehicles, loads; and radios, paging systems, etc.; and derived from Ord. No. 16915, adopted May 20, 1982; Ord. No. 17448, adopted April 28, 1987; and C.F. No. 96-642, adopted July 3, 1996.

Sec. 293.07. - Noise source limitations.

- (a) No person shall operate or cause to be operated on any property or properties any source of noise or sound in such manner as to create a sound level outdoors which exceeds the limits set forth for the receiving land use classification in Table 1 below when measured at the point of human activity which is nearest the noise source.

Table 1. Sound Level Restrictions for Receiving Land Use Classifications As Determined by the Location of the Receiver

Noise Receptor	Land Use Classification	Time	Sound Level Limit (One hour L10 dBA)
Class I	I-1, I-2 and I-3	At all times	80 dBA
Class II	R-1 through R-4, RT-1, RT-2	7:00 a.m. to 10:00 p.m.	65 dBA
	RM-1 through RM-3, P-1 and PD	10:00 p.m. to 7:00 a.m.	55 dBA
Class III	B-1 through B-5,	At all times	70 DBA

	B-2C and OS-1		
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- (b) Reserved.
- (c) Construction and demolition noise limitations shall be as follows:
 - (1) No person shall operate or cause to be operated construction or demolition equipment at any construction site in such a manner that the operation exceeds a L10 noise level of eighty-five (85) dBA at a distance of fifty (50) feet measured from the source.
 - (2) If the construction site is within or abuts residentially zoned property within Class II, the construction or demolition equipment shall observe the noise limits specified in paragraph (b) of this section.
- (d) The following noise sources are exempted from the provisions of this section:
 - (1) Fire, civil defense or other emergency signaling devices.
 - (2) Authorized emergency vehicles, including police vehicles, fire vehicles and ambulances, and city snowplowing vehicles.
 - (3) Noise created exclusively in the performance of emergency work to preserve the public health, safety or welfare, or in the performance of emergency work necessary to restore a public service or eliminate a public hazard shall be exempt for a period of twenty-four (24) hours after the work has begun.
 - (4) Domestic power tools, when used between the hours of 7:00 a.m. and 10:00 p.m.
 - (5) Parades and one-day festivals.
 - (6) Any festival or exhibition of no more than three (3) days in duration and sponsored or conducted by a neighborhood-based nonprofit organization from the hours of 7:00 a.m. and 10:00 p.m., providing that sound from any stationary electronically powered equipment used in conjunction with the festival or exhibition does not exceed ninety (90) decibels as measured from a distance of fifty (50) feet from the source.
 - (7)
 - a. The playing and exhibition of any home game or league event within a municipal stadium operated pursuant to a playing and use agreement in effect between the city and a team.
 - b. Other events, activities, and operations conducted in connection with home games, league events, or other sporting events sponsored by a team or the city are also exempt within the municipal stadium or stadium site excluding, however, the following:
 - 1. Musical performances and fireworks displays of any type; and
 - 2. Any other commercial and entertainment events not related to home games, league events or not sponsored by the city.
 - c. For the purposes of this subdivision, the following terms shall have the following meanings:
 - 1. "Team" means the major league soccer team that is a party to a playing and use agreement with the city for the municipal stadium then in effect, a copy of which shall be available for review upon reasonable request in the office of the city clerk.
 - 2. "Home games" means the team's MLS's professional soccer league games scheduled to be played at the stadium, including all pre-season, regular season, playoff, championship home games and any international soccer games in which the team participates or controls.

3. "League events," means any home games and any other league soccer related events scheduled by the team or the MLS professional soccer league to be held in the municipal stadium, including all-star games.
4. "Municipal stadium" shall have the meaning as defined under Minn. Stat. § 272.01, Subd.2(b)(1).
5. "Stadium site" means the area adjacent to the municipal stadium that the team has possessory rights to use as conveyed by the city.

(Ord. No. 16915, 5-20-82; Ord. No. 17448, § 1, 4-28-87; Ord. No. 17572, § 1, 7-5-88; Ord. No. 17766, §§ 1, 2, 9-4-90; C.F. No. 02-653, § 1, 8-14-02; Ord. No. 17-64, § 1, 2-14-18)

Note— Former § 293.09. See editor's note, § 293.06.

Sec. 293.08. - Administration.

- (a) *Responsibility of enforcement.* The primary responsibility of enforcing the provisions of sections 293.02 through 293.08 shall be with the police department. The primary responsibility of enforcing the provisions of section 293.09 shall be with the department.
- (b) *Noise impact statements.* Any city department or agency may require a noise impact statement in association with any change in zoning classification, in planning of a structure, or in any operation, process, installation or alteration which may be considered as a potential noise source, or in reviewing a request for a variance under this chapter.
- (c) *Performances of department.* The department shall also perform the following:
 - (1) Prepare for city council approval and keep on file guidelines establishing the test procedures and instrumentation to be utilized.
 - (2) Conduct inspections as required to determine whether violations exist.
 - (3) Review all variance requests and make recommendations to the city council. There is hereby established within the department a dedicated activity to which all receipts and disbursements for noise level variance requests will be recorded.
 - (4) Issue orders for abatement of noises which constitute a violation.
 - (5) Conduct such research, monitoring and other studies related to sound as are necessary or useful in enforcing this chapter.

(Ord. No. 16915, 5-20-82; Ord. No. 17448, § 1, 4-28-87; C.F. No. 02-653, § 1, 8-14-02; C.F. No. 07-149, § 69, 3-28-07)

Note— Former § 293.10. See editor's note, § 293.06.

Sec. 293.09. - Variances.

- (a) *Authority.* The city council shall have authority, consistent with this section, to grant variances from the sound level restrictions contained in section 293.07 and section 293.02(d).
- (b) *Application.* Any person seeking a permit shall file an application with the department on a form prescribed by it. The application shall include the following information:
 - (1) Name of responsible person.
 - (2) Dates during which the variance is requested.

- (3) Location of all particular noise sources and times of operation.
 - (4) Nature of noise sources and equipment involved.
 - (5) Reasons why a variance is sought.
 - (6) Steps taken to minimize the noise level.
 - (7) A noise impact statement, if required by the department.
- (c) *Fee.* The application shall be accompanied by the payment of a fee, which fee shall be listed in chapter 310 of the Saint Paul Legislative Code.
- (d) *Notice:*
- (1) The department shall notify by mail all property owners within three hundred (300) feet of the sources of noise for which a variance is requested, measured from the property lines of particular noise sources. If the department finds, however, that more than one hundred fifty (150) property owners are within three hundred (300) feet of noise sources included in a variance application, it may, in its discretion, notify the management company or president of a common interest community for any multifamily dwelling units. The department may notify a management company or president of a common interest community by electronic mail if notice is actually received and the department obtains confirmation of delivery.
 - (2) The notice shall include a statement describing the variance request, the date of the public hearing before the city council on the variance request, and a statement that written comments or objections may be filed with the department within fifteen (15) days of the notice.
 - (3) No sound level variance may be granted that would locate the source of any amplified music, announcements, or cheer stations on Spring Street or Chestnut Plaza.
 - (4) Additional notice will be provided following the provisions for early notification in Administrative Code Appendix A-11 within two (2) business days of receipt of a completed application.
- (e) *Action on application:*
- (1) Within thirty (30) days of receipt of the application, the city council shall hold a public hearing on the application.
 - (2) After a public hearing, the council may by resolution grant, deny, modify or revoke the variance request.
 - (3) The variance may be granted or modified only if the council finds that full compliance with the requirements of this chapter would constitute an unreasonable hardship on the applicant, on other persons, or on the community. The council shall balance the hardship to the applicant against the adverse impact on the health, safety and welfare of the persons affected, the adverse impact on property affected, and any other adverse effects of granting the variance.
 - (4) The variance may be granted subject to conditions, including restricting the hours of operation of the noise source, a time limit for duration of the variance, or attempts the applicant shall make to bring the noise source into compliance with this chapter.
 - (5) If a variance is granted, the applicant may be required to pay the city's cost of monitoring sound levels and compliance with other conditions.
 - (6) Emergency variances, in which immediate work is necessary to restore property to a safe condition or when immediate work is required to protect persons or property from imminent exposure to danger, may not be restricted in hours of operation, and may supply the information stated in the application in paragraph (b) after the work has begun.

(Ord. No. 16915, 5-20-82; Ord. No. 17448, § 1, 4-28-87; Ord. No. 17614, § 1, 11-22-88; C.F. No. 02-653, § 1, 8-14-02; C.F. No. 07-149, § 70, 3-28-07; C.F. No. 08-213, § 1, 3-26-08; Ord 12-61, § 1, 11-7-12; Ord 15-67, 12-2-15; Ord 15-70, 12-9-15)

Note— Former § 293.11. See editor's note, § 293.06.