



## Legislation Details (With Text)

**File #:** RES PH 15- 108      **Version:** 2  
**Type:** Resolution-Public Hearing      **Status:** Passed  
**In control:** City Council  
**Final action:** 5/6/2015

**Title:** Approving the application of Brian Horst, for a sound level variance in order to present amplified music for the Music in Mears concerts from 6:00 p.m. until 9:00 p.m. on twelve (12) Thursdays starting June 11, 2015 through August 27, 2015 and followed by movies from 9:00 p.m. to 11:00 p.m. on six (6) Thursdays from July 23, 2015 through August 27, 2015 in Mears Park.

**Sponsors:** Dave Thune

**Indexes:** Ward - 2

**Code sections:**

**Attachments:** 1. Application, 2. Copy of ENS, 3. Map, 4. Notice to District Council, 5. Notice to Property Owners, 6. List of Property Owners, 7. Letter to Applicant

| Date      | Ver. | Action By      | Action             | Result |
|-----------|------|----------------|--------------------|--------|
| 5/11/2015 | 2    | Mayor's Office | Signed             |        |
| 5/6/2015  | 1    | City Council   | Adopted As Amended | Pass   |

Approving the application of Brian Horst, for a sound level variance in order to present amplified music for the Music in Mears concerts from 6:00 p.m. until 9:00 p.m. on twelve (12) Thursdays starting June 11, 2015 through August 27, 2015 and followed by movies from 9:00 p.m. to 11:00 p.m. on six (6) Thursdays from July 23, 2015 through August 27, 2015 in Mears Park.

WHEREAS, Chapter 293 of the Saint Paul Legislative Code was enacted to regulate the subject of noise in the City of Saint Paul; and

WHEREAS, §293.09 provides for the granting of variances from the sound level limitations contained in §293.07, upon a finding by the City Council that full compliance with Chapter 293 would constitute an unreasonable hardship on the applicant, other persons or on the community; and

WHEREAS, Brian Horst, Event Director, has been designated as the responsible person on the application, has applied for a to present amplified music for concerts from 6:00 p.m. until 9:00 p.m. on twelve (12) Thursdays starting June 11, 2015 through August 27, 2015 and followed by movies from 9:00 p.m. to 11:00 p.m. on six (6) Thursdays from July 23, 2015 through August 27, 2015 in Mears Park; and

WHEREAS, applicant is seeking a variance for the hours of 6:00 p.m. until 9:00 p.m. on twelve (12) Thursdays starting June 11, 2015 through August 27, 2015 and from 9:00 p.m. to 11:00 p.m. on six (6) Thursdays from July 23, 2015 through August 27, 2015; and

WHEREAS, if applicant is not granted a variance it will not be able to present the amplified music and show movies in Mears Park; and

WHEREAS, the Department of Safety and Inspections has reviewed the application and has made recommendations regarding conditions for the variance; now, therefore, be it

RESOLVED, that the Council of the City of Saint Paul hereby grants a variance to the Brian Horst, subject to

the following conditions:

1) The variance will be for amplified music for the hours from 6:00 p.m. until 9:00 p.m. on twelve (12) Thursdays starting June 11, 2015 through August 27, 2015 and for movies from 9:00 p.m. to 11:00 p.m. on six (6) Thursdays starting July 23, 2015 through August 27, 2015.

2) All electronically powered equipment, PA systems, loudspeakers or similar devices used in conjunction with the music concert events must not exceed 90 dBA, as measured at 50 feet from the noise source from 6:00 p.m. until 9:00 p.m., and 80 dBA as measured at 50 feet from the noise source for the movies from 9:00 p.m. until 11:00 p.m.

3) The applicant shall provide personnel and equipment who will provide sound level monitoring to ensure compliance with the sound level variance conditions.

4) All electronically powered equipment, PA systems, loudspeakers or similar devices shall be turned off no later than 9:00 p.m. on six (6) Thursdays from June 11, 2015 through July 16, 2015 and no later than 11:00 p.m. on six (6) Thursdays from July 23, 2015 through August 27, 2015.

FURTHER RESOLVED, that if three or more verified complaints from residents or businesses in the area regarding significant negative impact from the increased sound level variance for the amplified music from 6:00 p.m. to 9:00 p.m. or the movies from 9:00 pm. to 11:00 p.m. or both, the sound levels will be reduced from 90 dba to 85 dba for the amplified music and from 80 dba to 75 dba for the showing of movies. Such reduction will not require a further hearing before council but shall be documented in a written communication to council from DSI; and be it

FURTHER FINALLY RESOLVED, that any violations of the conditions regarding the dates, times, and decibel levels of the variance set forth above on any of the dates may result in revocation of this variance for the remaining date(s), in addition to any criminal citation which might issue.

Brian Horst, Event Director, has requested an exemption from the sound level limitations in Chapter 293.07 in order to present amplified music for concerts from 6:00 p.m. until 9:00 p.m. on twelve (12) Thursdays starting June 11, 2015 through August 27, 2015 and followed by movies from 9:00 p.m. to 11:00 p.m. on six (6) Thursdays from July 23, 2015 through August 27, 2015 in Mears Park. Chapter 293.09 provides for the granting of variances from the sound level limitations contained in Chapter 293.07.

Was proper notice given? YES - See Attachments