

.. Title

An Ordinance Amending Chapter 293 of the Saint Paul Legislative Code to create an administrative process for Amplified Sound Permits and modify the process for Sound Level Variances.

.. Body

THE COUNCIL OF THE CITY OF SAINT PAUL DOES ORDAIN:

Section 1

WHEREAS, the Saint Paul Code of Ordinances (Chapter 293), in line with Minnesota Statute, establishes maximum permitted sound levels for all areas of the City; and

WHEREAS, current Ordinance requires that a request, that is not related to a community festival, for a variance from the stipulated sound levels must be reviewed and approved by the Saint Paul City Council at a public hearing; and

WHEREAS, the vast majority of sound level variance City Council public hearings have no testimony; and

WHEREAS, the current sound level variance process requirement that individuals submit variance applications 60 days in advance can result in unnecessary hardship; and

WHEREAS, the current variance process unnecessarily requires significant staff resources; and

WHEREAS, the Department of Safety and Inspections is currently responsible for assessing each sound level variance request and making specific recommendations to the City Council; and

WHEREAS, many cities administratively approve lower sound level variance requests; and

WHEREAS, the Department of Safety and Inspections and the Parks and Recreation Department are proposing the creation of Amplified Sound Level Permits to support the administrative review and approval of lower sound level variance requests, reserving the City Council sound level variance review and approval public hearing process for only those that do not meet the Amplified Sound Level Permit requirements; now, therefore be it

RESOLVED, that the Saint Paul City Council amend Saint Code of Ordinances Chapter 293 to update and to create an Amplified Sound Level Permit with specific requirements related to permitted sound levels, permit fee, event locations, and frequency of occurrences.

SECTION 2

Section 293.01 of the Saint Paul Legislative Code is hereby amended to read as follows:

Sec. 293.01. Definitions.

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

- (1) Amplified sound. Any sound that is made louder through a human made device.
- ~~(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 Department of Safety and Inspections. ~~city department of safety and inspections.~~
- (5) Director. The Director of the Department or their designee.
- ~~(5)~~(6) 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.
- (7) Noisy assembly. A gathering of more than one person in a residentially zoned or used area or building that causes 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.
- (8) Non-Residential Amplified Sound Permit. Non-Residential Amplified Sound Permit reviewed and issued by the Department to an applicant located in any area that is not within Department of Parks and Recreation owned or operated property and outside of the boundaries for areas requiring a Residential Amplified Sound Permit.
- (9) Parks Amplified Sound Permit. Amplified Sound Permits located on Department of Parks and Recreation owned or operated property. Parks Amplified Sound Permit applications are reviewed and issued by Parks and Recreation in any land use category as defined in Table 1 of §293.07.
- (10) PCA definitions adopted. Pursuant to Minnesota Statutes, §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.
- (11) Residential Amplified Sound Permit. Amplified Sound Permit issued for Residential land use categories as defined in Class 1 of Table 1 of § 293.07. Residential Amplified Sound Permits are not required for Property owned or operated by Parks and Recreation.
- ~~(6)~~(12) 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.

SECTION 3

Section 293.02 of the Saint Paul Legislative Code is hereby amended to read as follows:

Sec. 293.02. Noise as a public nuisance.

(a) *Generally.*

- (1) It ~~shall be~~ is 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~~ causes significant discomfort or annoyance to a reasonable person of ordinary sensitivities in the area.
- (2) The characteristics and conditions which ~~shall be~~ are 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~~ is 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~~ is 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~~ is 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~~ includes, 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. Amplified sound may not exceed the Noise Source Limitations outlined in §293.07 unless it is permitted under §293.09, Amplified Sound Permits or §293.10 Variances.~~
- (e) *Motor vehicles.*
- (1) *Generally.* It ~~shall be~~ is 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~~ is 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~~ is 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 and Enforcement.*
- (1) Unless otherwise proscribed, ~~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.

SECTION 4

Section 293.04 of the Saint Paul Legislative Code is hereby amended to read as follows:

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.

SECTION 5

Section 293.05 of the Saint Paul Legislative Code is hereby amended to read as follows:

Sec. 293.05. Exhaust.

No person shall discharge or permit the discharge of any steam engine, stationary internal combustion engine, ~~motor boat~~ motorboat, 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.

SECTION 6

Section 293.06 of the Saint Paul Legislative Code is hereby amended to read as follows:

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.

SECTION 7

Section 293.07 of the Saint Paul Legislative Code is hereby amended to read as follows:

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. MN Rules Chapter 7030.

~~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, B-2C and OS-1	At all times	70 DBA

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

<u>Noise Receptor</u>	<u>Land Use Classification</u>	<u>Time</u>	<u>Sound Level Limit (One hour L10 dBA)</u>
<u>Class I</u>	<u>H1, H2, RM1-RM3, RL, F1, CO, PD</u>	<u>7:00 a.m. to 10:00 p.m.</u>	<u>65 dBA</u>
<u>Class I</u>	<u>H1, H2, RM1-RM3, RL, F1, CO, PD</u>	<u>10:00 p.m. to 7:00 a.m.</u>	<u>55 dBA</u>
<u>Class II</u>	<u>T1-T4, OS, BC, B1, B2, F2-F6, VP</u>	<u>At all times</u>	<u>70 dBA</u>
<u>Class III</u>	<u>B3-5, IT-I3</u>	<u>At all times</u>	<u>80 DBA</u>

(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. Amplified Sound Restrictions. Amplified sounds which exceed the Sound Level Restrictions for Receiving Land Use Classifications described in Table 1, as measured by a pre-calibrated portable sound meter and which are not subject to an exemption must have a valid permit under §293.09 or a variance issued §293.10.
- (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) Municipal Stadium
- 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.

SECTION 8

Section 293.08 of the Saint Paul Legislative Code is hereby amended to read as follows:

Sec. 293.08. Administration and Enforcement.

(a) Responsibility for Permit issuance.

1. The Department has the primary responsibility for review and issuance of Residential and Non-Residential Amplified Sound Permit under the provisions of §293.09.
2. The Department has the primary responsibility for review, processing and recommendations related to Sound Level Variance Requests under §293.10.
3. Parks and Recreation has the primary responsibility for review and issuance of Parks Amplified Sound Permits.

(b) Responsibility and scope of enforcement.

1. The Department is responsible for enforcement of any permit issued by the Department under §293.09 or variance granted by City Council under §293.10. The scope of the Department's enforcement is limited to issuance of orders, revocation and/or denial of future permit or variance requests. shall be with the Department.
2. The Saint Paul Police Department has the primary responsibility of enforcing the provisions of §§293.02 through 293.08. shall be is with the police department.
3. Parks and Recreation has the primary responsibility for enforcement of Parks Amplified Sound Permits.

(c) *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 permit or variance under this chapter.

(d) *Performances of ~~Department~~ department.* The Department ~~department~~ shall must 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.

SECTION 9

Section 293.09 of the Saint Paul Legislative Code is hereby amended to read as follows:

Sec. 293.09. Amplified Sound Permits.

(a) General Guidelines for issuing Amplified Sound Permits:

1. Permit Fees. Fees for Amplified Sound Permits are \$138 for each calendar day for which amplified sound which exceeds the levels defined in Table 1 is played or operated.
2. Permit Duration. Amplified Sound Permits may only be issued to permit amplified sound which exceeds the levels defined in Table 1 between the hours of 7:00 a.m. and 10:00 p.m., Sunday through Thursday and 7:00 a.m. through 11:00 p.m. Friday and Saturday.
3. Permit Allowed Sound Levels.
 - a. **Residential:** Up to 80 dBA measured at 50 feet from sound source.
 - b. **Non-residential:** Up to 90dBA measured at 50 feet from sound source.
4. Frequency of Permits. Amplified Sound Permits for one property are limited to twelve (12) hours in any one (1) day, twenty-four (24) hours in any seven (7) day period and thirty-six (36) hours in any twenty-eight (28) day period.
5. Permit Application Requirements. Applicants must submit, a completed Permit Application, the Permit Fee and proof that the applicant has sent notice to their District Council and all adjacent properties within a three-hundred-foot radius.
6. No Amplified Sound Permit may be issued that would locate the source of any amplified music, announcements, or cheer stations on Spring Street or Chestnut Plaza.

SECTION 10

Section 293.10 of the Saint Paul Legislative Code is hereby amended to read as follows:

Sec. 293.09 10. Variances.

- (a) *Authority.* The city council ~~shall have~~ has the authority, consistent with this section, to grant variances from the sound level restrictions contained in §293.07 and §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 is ~~shall be~~ listed in chapter 310 of the Saint Paul Legislative Code.
- (d) *Notice:*
 - (1) ~~The department~~ Department ~~shall~~ must 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~~ 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~~ Department may notify a management company or president of a common interest community by electronic mail if notice is actually received and the ~~department~~ 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~~ 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.

SECTION 11

This Ordinance shall take effect and be in force thirty (30) days following its passage, approval and publication.