

Sec. 26-199. - Temporary waiver.

- (a) Any person who owns or operates a sound source, or intends or desires to operate or maintain a sound source, for one of the following purposes may apply for a temporary waiver from the city commission:
 - (1) Private or public celebrations in accordance with the requirements of City Code of Ordinances section 6-86;
 - (2) Nighttime construction projects; or
 - (3) Homeowner construction projects.
- (b) Applications for a permit for a temporary waiver shall supply information including, but not limited to:
 - (1) The nature and location of the noise source for which such application is made;
 - (2) The reason for which the permit for temporary waiver is requested, including the hardship, if any, that will result to the applicant or the public if the permit for temporary waiver is not granted;
 - (3) The nature and intensity of noise that will occur during the period of the temporary waiver;
 - (4) A description of interim noise control measures to be taken by the applicant to minimize noise and the impacts occurring therefrom; and
 - (5) The name, address and means of contacting a responsible party during the hours of operation for which the permit for temporary waiver is issued.
- (c) The city commission may charge the applicant a fee established by resolution of the city commission to cover expenses resulting from the processing of the permit of temporary waiver application.
- (d) In making the determination on granting a temporary waiver, the city commission shall consider:
 - (1) The character and degree of injury to, or interference with, the health and welfare of the reasonable use of adjacent property which is caused or threatened to be caused by the sound to result from the permit for temporary waiver;
 - (2) The social and economic value of the activity for which the temporary waiver is sought; and
 - (3) The ability of the applicant to apply best practical noise control measures.
- (e) The permit of temporary waiver shall enumerate the conditions of the waiver, including, but not limited to:
 - (1) Specific location, dates and times for which the temporary waiver is valid;
 - (2) Sound level limits which shall not be exceeded at the nearest affected residential property;
 - (3) The use of noise control measures to minimize noise impacts on adjacent property.
- (f) A temporary waiver may be revoked by the city manager or his designee and the issuance of future waivers withheld, if there is:
 - (1) Violation of one or more conditions of the temporary waiver;
 - (2) Material misrepresentation of fact in the temporary waiver application; or,
 - (3) Material change in any of the circumstances relied upon by the city commission in granting the temporary waiver.
- (g) Notice of the city commission's proposed action on an application for a permit for a temporary shall be mailed prior to the meeting at which the matter is to be considered to all property owners located within a 100-foot radius of the proposed waiver. Notice of such proposed action also shall be published in a newspaper of general circulation in the city at least five days prior to the date of the city commission decision. The notice shall identify a contact person and phone number for complaints. The applicant shall pay for the newspaper advertisement.