



Health, Housing & Community Services
 Division of Environmental Health
 2180 Milvia St. 2nd Floor, Berkeley, CA 94704
 (510) 981-5310 Fax: (510) 981-5305
 Email : envhealth@cityofberkeley.info

Permit Fee: **\$44.00**
 Variance Fee: **\$182.00**
 Waived: Yes ___ No ___
 Resolution #: _____

***Fees Change on July 1st Each Year**
 Permit Number: _____
******No Refund******

APPLICATION FOR AN AMPLIFIED SOUND PERMIT or VARIANCE ONLY
NOTE: THIS PERMIT DOES NOT AUTHORIZE A SPECIAL EVENT
(NOT VALID ON U.C. PROPERTY)

Approved Permits must be available at the Event site

A permit is hereby issued to applicant (over 18 years) Name: _____ Tel. Phone: _____
 Address: _____ and E-mail: _____
 to operate a sound amplifier in the City of Berkeley at the following Location: _____
 _____ on _____ between the hours of _____ a.m. and _____ p.m.

EFFECTIVE JANUARY 22, 2010, THIS PERMIT WILL BE AUTOMATICALLY DENIED IF:

- Application is filed without applicable Fees or Fee Resolution
- Application for Permit is filed less than 30 days prior to an Event (except for an occurrence that does not allow timely filing)
- Application is filed less than 30 days for Noise Variance (no exceptions)
- Time for permit on private property exceeds four (4) hours in any 24 hours
- Time period for permit is later than 8:00 p.m. on Public and/or Private property
- Application is incomplete, has missing information and/or is filed without Supplemental information
- Application does not comply with provisions of the Noise Ordinance
- Application does not comply with other City Ordinances

Event Information:

NAME OF EVENT: _____ **FIRST TIME EVENT:** Yes No **REPEAT EVENT:** Yes No
PURPOSE: _____ **ANTICIPATED NUMBER OF PEOPLE ATTENDING:** _____
LOCATION OF EVENT: City Park Public Sidewalk Public Street Private Property
TYPE OF EVENT: Temporary Event Entertainment Event Other _____
VARIANCE REQUESTED: Yes No **SPECIAL EVENT PERMIT REQUESTED:** Yes No

 Is this event to be held at a City park? Yes No *If Yes, contact Parks Recreation and Waterfront Dept. at (510) 981-5150*
 Is this event open to the public? Yes No *If Yes, contact Parks Recreation and Waterfront Dept. at (510) 981-5150*
 Will food be sold or given at this event? Yes No *If Yes, apply for Temp food Permit at Env. Health at (510) 981-5310*
 Will there be alcoholic beverages sold/given at this event? Yes No *If YES, contact Police Dept. at (510) 981-5805*

Equipment Information:

➤ Type of Amplifier: Fixed PA System Mobile: Type of Vehicle: _____ License Plate # _____
Other (Explain) _____
 ➤ Number of Amplifiers: _____ Number of Speakers: _____ Number of Performers: _____
 ➤ Type of Outlet: Electrical Outlet Portable Generator(s): How Many: _____ Other: _____

Operator Information (REQUIRED):

Name of two (2) event attendants who will monitor the sound level and respond to complaints and violations:

Name: _____ Address: _____ Phone: _____

Name: _____ Address: _____ Phone: _____

Amplifier Operator: _____ Address: _____ Phone: _____

Photo ID of Applicant: _____ Driver's License # _____ Exp Date: _____

Supplemental Information REQUIRED on a Separate Sheet. Please note that an application will not be accepted without the following information:

1. Submit to scale a site map with equipment dimensions. This applies to all events on the sidewalk, Public Street or City Park
2. Provide space layout for equipment with side walk clearances
3. Show location and placement of each speaker
4. List number (how many) and type of instruments, equipment and speakers including bullhorns required for this event.
5. Submit street and route map showing all points and street intersections where performers will be performing and stopping. Each stopping point requires a separate permit. (This information is REQUIRED for Mobile Vehicles or a Street Parade).

Note: Input from other city departments is required before processing this application.

Briefly Explain the Following:

1. Provisions to deal with incoming complaints: _____
2. Provisions to admit people to the event: _____
3. Provisions for crowd control: _____
4. Provisions to monitor noise levels during the performance: _____
5. Provision to distribute event flyers in the surrounding areas in advance: _____
6. Have you been cited, warned verbally or in writing to leave or comply with the noise ordinance? _____
 No Yes If yes, date(s) _____. (Inaccurate information will be a cause for denial of this permit)

"I have received and reviewed those sections of Berkeley Municipal Code (BMC) Chapter 13.40, the Community Noise Ordinance, that are relevant to use of outdoor amplified sound. I am familiar with the contents of the Ordinance and I agree that the sound amplifying equipment, which is the subject of this permit, will be used only during the hours and on the date specified in this permit. I understand that a violation of any provision of the Ordinance may result in the issuance of a citation, may require my appearance in court, and may result in a fine of up to \$500.00. I acknowledge that the amplified sound will be controlled so as not to be 'unreasonably loud, raucous, jarring, disturbing or a nuisance to reasonable persons of normal sensitiveness within area of audibility.' (BMC Section 13.40.100.C.7) 'Approval of the permit may be conditioned upon such other terms as necessary to insure compliance' (BMC Section 13.40.100). By accepting this permit I agree to take all steps necessary to resolve complaints about my use of amplified sound and to ensure compliance with the provisions of the Ordinance."

NOTE: This approval is for AMPLIFIED SOUND ONLY. For all other issues, including park access and rules, public right-of-way permits, and special event permits, Please contact the appropriate government agency.

Original Signature of Applicant or Responsible Party: _____ **Date** _____

*****Please Note that Faxed Copies Will Not Be Accepted.**

For Noise Control Officer Only

Comments: _____

Permit DENIED: _____ **Permit APPROVED:** _____

Noise Control Officer: _____ Date: _____

For Internal Office Use Only:

Anticipated noise level in decibels:
 (check one)

55 dBA – R1, R2, ESR
 60 dBA – R3, MUR
 65 dBA – Commercial
 above 65 dBA – **Variance Required**
 70 dBA – M, MM, MULI
 noise level not to exceed _____ dBA

APPLICATION FOR A NOISE VARIANCE
Submit 30 Days before the Event

FEE: \$182.00 (Fees Change on July 1st of Each Year)

Date: _____

Application No.: _____

NOTICE: Section 13.40.090 of the Berkeley Municipal Code requires the issuance of a variance for the creation of any noise, which exceeds the standards specified in the City of Berkeley Community Noise Ordinance, Chapter 13.40 of the Berkeley Municipal Code.

Applicant: _____

Address: _____ Phone No.: _____

Describe type or source of noise and location: _____

Hours of operation **(Not to exceed four (4) hours on Private Property):** From: _____ To: _____

Day of operation: _____ Duration of operation **on Public Event:** _____

What decibel noise level will be generated: _____

What is zoning in the area of the noise source: _____

Describe the effect of failure to obtain a variance: _____

Use additional sheets if necessary to adequately justify request for variance. I/We are the owners or the contractor for the owners of the property described and realize that a decision on this application rests entirely on the information and justification provided, and or any accompanying documents. I/We hereby affirm and certify under penalty of perjury that the foregoing statements and answers are in all respects true and correct to the best of my/our knowledge. I/We also have been given and have read City of Berkeley Community Noise Ordinance BMC 13.40 Sections 13.40. 090 and 13.40.100, and understand its limitations and requirements.

*****Please Note: Any objection on this request will require mitigation measures before a permit is issued.**

Applicant's Signature: _____

Variance Approved: _____

Variance Denied: _____

Noise Control Officer: _____

Date: _____

Following approval of this permit, the Parks Recreation and Waterfront Department should be contacted and keys requested to the electrical power box if electricity is required. An approved, signed copy of the sound amplification permit must be shown to the Parks Recreation and Waterfront Department before a key will be issued. Upon completion of use of the electricity, the power boxes must be locked and the keys returned to Parks Recreation and Waterfront Department within two (2) working days.

FAILURE TO DO SO MAY RESULT IN DENIAL OF FUTURE USE OF THE PARK

There is an electrical box mounted on the street light pole between the Martin Luther King Park and the Civic Center Building. The electrical service available in the box consists of two (2) each, duplex receptacles, 20 amp, 110 volts and one (1) each, twist lock receptacle, 20 amp, 220 volts. Each receptacle is protected by a separate ground fault interrupter. The ground fault will trip if the user overloads the circuit or connects faulty electrical equipment.

WARNING: IF THE CIRCUITS ARE OVERLOADED, THE POWER IS AUTOMATICALLY INTERRUPTED AND WILL NOT CONTINUE. CITY EMPLOYEES DO NOT WORK ON SATURDAY, SUNDAY, AND HOLIDAYS. THEREFORE, THE POWER CANNOT BE RESTORED.

APPLICANT IS PROHIBITED FROM DRIVING VEHICLE ACROSS LAWN AREA IN ORDER TO SET UP SOUND EQUIPMENT.

THIS PERMIT MUST BE IN THE POSSESSION OF PERSON OPERATING EQUIPMENT AND MUST BE SHOWN, UPON DEMAND, TO ANY MEMBER OF THE BERKELEY POLICE DEPARTMENT.

ORDINANCE NO. 7,122-N.S.

AMENDING CHAPTER 13.40 OF THE BERKELEY MUNICIPAL CODE, REGULATING
COMMUNITY NOISE

13.40.090 Issuance of variances by the NCO.

The creation of any noise which exceeds the standards specified in this chapter that is not otherwise exempt requires the issuance of a variance. The EHD shall evaluate all applications for variances from the requirements of this chapter and may grant said variances with respect to time for compliance, subject to such terms, conditions, and requirements as it may deem reasonable to achieving compliance with the provisions of this chapter. Each such variance shall set forth in detail the approved method of achieving compliance and a time schedule for its accomplishment. If in the judgment of the EHD the time for compliance cannot be reasonably determined, a variance to cause the noise may be issued for a period not to exceed three years. In determining the reasonableness of the terms of any proposed variance, the EHD shall consider the magnitude of nuisance caused by the offensive noise, the uses of property within the area of impingement by the noise, operations carried on under existing nonconforming rights or conditional use permits or zoning variances, the time factors related to study, design, financing and construction of remedial work, the economic factors related to age and useful life of the equipment and the general public interest and welfare.

A. Any person seeking a variance pursuant to this section shall file an application with the EHD. The application shall contain information which demonstrates that bringing the source of sound or activity for which the variance is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, or the community, or on other persons.

A separate application shall be filed for each noise source; provided, however, that several mobile sources are under common ownership, or several fixed sources on a single property may be combined into one application. Notice of an application for variance shall be posted for 12 working days in the area of the proposed variance, which notice shall state the last the day to file an objection to the variance. If an individual who claims to be adversely affected by allowance of the variance files a written objection by the deadline provided in the notice with the EHD objecting to the proposed variance, the EHD will facilitate discussion with the applicant to mitigate that individual's concerns. Any late written objections shall be taken into consideration for future events.

B. In determining whether to grant or deny the application, the EHD shall balance the hardship on the applicant, the community, and other persons of not granting variance against the adverse impact on the health, safety, and welfare of persons affected, and any other adverse impacts of granting the variance. Applicants for variances and persons contesting variances may be required to submit such information as the EHD may reasonably require. In granting or denying an application, the EHD shall keep on public file a copy of the decision and the reasons for denying or granting the variance.

C. Variances shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any

condition of the variance shall terminate the variance and subject the person holding it to those provisions of this chapter. (Ord. 5500-NS § 1 (part), 1982)

13.40.100 Permits--Outdoor amplified sound.

A. Applications. Any person(s) or organization(s) wishing to use amplified sound outdoors for an Event must obtain a permit for the amplified sound from the EHD. In evaluating the application, the EHD shall consider the following factors in addition to additional criteria the EHD may adopt:

Factors:

1. Time and duration (if any) of event.
2. Location or route of event.
3. Anticipated number of people in attendance.
4. Number of people to be affected by the event.
5. Magnitude of noise.
6. Provisions of the organization to deal with complaints received.
7. Provisions of the organization for admitting people to the event.
8. Provisions of the organization for crowd control, disabled access, pedestrian access, and vehicle access.
9. Past compliance and non-compliance with the provisions of this Chapter and previous permits granted to the organization.
10. That on private property there have been no more than seven permits for outdoor or indoor amplified sound granted for the location applied for within that calendar year or any such permit granted for an event taking place at the location within 30 days of the requested date.
11. That on public property no more than one permit be issued for the Location in any one day.

This application will be due to the EHD no less than 30 days before the intended date of the Event, unless the proposed Event is in response to an occurrence whose timing did not reasonably allow the applicant to file a timely application and the imposition of this time limitation would place an unreasonable restriction on free speech. An application must be on a form provided by the City and shall include the names, addresses, phone numbers, and photo identification of all persons who are or will be responsible for the conduct of the event. The application will be denied if the information contained in the application, including supplemental information, if any, is found to be false in any material respect, the applicant fails to meet the City requirements for a permit, or Factors 10 or 11 above apply.

B. Contents of Permits and Conditions.

An amplified sound permit may impose reasonable time, place, and manner conditions such that the proposed sound will not pose a traffic or safety hazard, interfere with fire or police protection services, or unreasonably interfere with pedestrian or vehicular use of the Public right-of-way. All amplified sound permits shall be subject to the following conditions:

1. The only amplified sounds permitted shall be either music or human speech, or both;

2. Sound amplification equipment on private property shall not be utilized in any location for a period in excess of 4 hours in any 24-hour period;

3. Sound amplifying equipment when associated with an approved Event permit shall be used upon public property for the duration of the Event and only between the hours of 10:00 a.m. and 8:00 p.m., except as may be permitted pursuant to other provisions of this Code, such as Section [13.40.080](#), and upon private property only between the hours of 10:00 a.m. and 8:00 p.m.;

4. Speakers for outdoor sound amplification equipment shall be directed, to the extent feasible toward open or unoccupied space and away from residentially occupied property;

5a. The sound emanating from sound amplifying equipment on private property shall not exceed 15 dBA above the ambient noise level measured at the exterior of any dwelling unit located on any residential property; and in no case to exceed 65 dBA at the exterior of any such building;

5b. On public property such sound may not exceed 15 dBA above the ambient noise level measured at any point 50 feet from the sound amplifying equipment. The EHD may allow higher limits upon a showing that an expected audience cannot be effectively communicated to within the above limits;

6. In any event, the volume of sound shall be so controlled that it will not be unreasonably loud, raucous, jarring, disturbing or a nuisance to reasonable persons of normal sensitiveness within the area of audibility; Such other terms as may be necessary to insure compliance with the provisions of this chapter; The organization must provide the EHD with the names of two people who will be in attendance at all times and have the authority to deal with a NCO or the police in response to complaints and/or violations; The permittee shall carry the permit during the proposed Event and show it, upon demand, to any City employee authorized to enforce this Chapter; All sound equipment must be kept in locations that comply with the location and size requirements of Section [14.48.170](#). The EHD may require the applicant to distribute flyers throughout the surrounding area in advance of the proposed Event, notifying the affected residents and business people of the proposed Event.

D. A NCO may summarily terminate the permit after a warning, if the activity for which the permit is issued results in violations of any applicable laws or regulations.

E. A violation of any permit conditions is a violation of this Chapter.

F. The EHD may issue additional regulations to further the purposes of this Section. (Ord. 5500-NS § 1 (part), 1982)

13.40.120 Appeals.

Any person directly affected by the noise and/or the applicant who is aggrieved by approval or disapproval of a variance or permit by the EHD may appeal in writing to the City Manager no less than 72 hours prior to the anticipated exercise of the variance or permit. The City Manager shall consider the appeal as soon as possible. The City Manager shall provide written notice of his or her decision to the appellant. The City Manager's decision shall be final. (Ord. 5500-NS § 1 (part), 1982)