

Proposed License Commission Entertainment Rules Amendment
June 6, 2016

Frequently Asked Questions (FAQ)

Why are the Rule Changes Being Proposed?

There are several reasons why the proposed Rules amendment is being proposed, including:

- To establish clear and easily verifiable sound limits for music and other noise generated by licensed entertainment.
- To remove existing barriers to the effective investigation and resolution of complaints.
- To establish a process by which entertainment events that typically generate higher sound levels (e.g. - special events, outdoor concerts) may seek permission to exceed normally applicable sound limits on a case-by-case basis.
- To improve neighbor awareness when applications for entertainment that would exceed the normally applicable sound limits are made.
- To establish application requirements and approval criteria.

How much sound may my establishment or event generate?

Under the proposed Rules, sounds from licensed entertainment would need to comply with the following limits:

- Sounds generated by licensed entertainment may not be plainly audible at a distance of 150 feet or more beyond the property boundary of the licensed premises at any time.
- Sounds generated by licensed entertainment may not be plainly audible at a neighboring residence at a distance of 50 feet or more beyond the property boundary of the licensed premises after 9:00 PM Sunday – Thursday, and after 10:00 PM Friday and Saturday.

To allow for occasional special events, or in cases where louder sound levels would not adversely affect neighbors, an applicant may request a deviation from the proposed limits.

How were the sound limits determined? How do the sound limits proposed compare to those in other communities?

The proposed sound limits were established following an extensive review of entertainment and noise regulations for more than 50 communities in New England and throughout the country. Boston, Cambridge, Somerville, Springfield and Providence, RI all have similar sound limits for licensed entertainment in place currently.

Do the proposed rules prohibit outdoor music?

Background music outdoors will in most cases comply with the proposed sound limits, particularly before the lower night-time limits take affect for those establishments located in close proximity to residential uses. Louder entertainment, such as outdoor concerts, could be permitted by requesting a deviation from the normally applicable limits. The License Commission would then consider factors such as the proposed sound levels, time of day, duration of sound, sound mitigation measures, and proximity to and type of neighboring uses when determining whether to allow a deviation from the normally applicable sound limits.

How far in advance do I need to apply?

Application deadlines will remain unchanged except for those applicants seeking a deviation from the normally applicable sound limits. Abutter notice must be mailed at least 10 days prior to the hearing for such applications.

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LICENSE COMMISSION FOR THE CITY OF WORCESTER
RULES AND REGULATIONS
For Entertainment Licenses

All applicants for entertainment licenses under G.L. c. 140, sections 181 and 183A who are required to be licensed under section 2, 21A or 21E of Chapter 140, or section 12 of Chapter 138, and any person owning, managing, or controlling any concert, dance, exhibition, cabaret or public show of any description to be conducted on any premises required to be licensed under the sections described above, and those who are licensed to provide such entertainment on the licensed premises shall hereafter be subject to the following rules and regulations, each of which are applicable and enforceable separately.

Adoption and Amendment

These rules and regulations may be adopted and from time to time and amended by majority vote, provided such adoption or amendment is submitted in writing at a meeting of the License Commission, hereinafter referred to as the "Commission." If the matter proposed for adoption or amendment receives a positive vote, then such matter shall be placed on the agenda of the next meeting of the Commission for a hearing. After the hearing, the Commission may vote final approval, which vote shall be by roll call.

Definitions

For the purpose of these rules and regulations the following words shall have the following meanings:

Plainly Audible - any sound that can be detected by a person using his or her unaided hearing faculties. (As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the enforcement officer need not determine the title of a song, specific words, or the artist performing the song. The detection of the rhythmic base component of the music is sufficient to constitute a plainly audible sound).

General Rules and Regulations

1. The provisions of G.L. Chapter 140, sections 181 and 183A as most recently inserted therein by section one of Chapter 694 of the Acts of 1981, as it may be amended from time to time, and insofar as it pertains to the licensing and the exercise of licenses granted hereunder, is incorporated herein by reference. Said statute prevails over these rules and regulations in the event of any conflict therewith.
2. All applicants for entertainment licenses shall complete and file with the Commission the application form approved by the Commission, which shall be furnished by the Planning & Regulatory Services Division, as amended from time to time by the Commission, and shall pay such application fee as shall be required by law before any

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application will be heard by the Commission. Such application shall, at a minimum, include the following information:

- a. A description of the place where entertainment shall take place;
 - b. A description of the entertainment;
 - c. A description of the safety measures to be employed for containment of the area and noise;
 - d. Mitigation measures, especially if close to residences;
 - e. Hours of operation;
 - f. Person responsible for the event or licensed premises and contact information;
 - g. Proposed lighting and its location on the licensed premises;
 - h. Security plan and crowd management;
 - i. Plan of the proposed licensed premises and the location of the entertainment within that plan;
 - j. Any other information that the Commission, at its discretion, deems necessary and is reasonably related to the consideration of a particular location; and
 - k. A space for the signature from Inspectional Services, the Fire Department, the Police Department, and any other relevant department verifying that inspections were completed and/or the department approves or denies the request.
3. No license can be transferred or surrendered without authority of the Commission.
 4. Stock in a corporation shall not be transferred without permission from the Commission.
 5. Licensed entertainment must be confined to the licensed areas.
 6. All licenses must be posted under glass on the premises specified so that same may be easily observed.
 7. The licensed premises shall be subject to inspection by the Police, the Commission, the Board of Health, Inspectional Services, and any other authorized agency of the City of Worcester, to ascertain the manner in which the licensee conducts his/her business.
 8. The licensed premises must at all times be kept clean, neat and sanitary in accordance with the rules and regulations of the Board of Health and Inspectional Services, and other applicable laws.
 9. All signs and advertisements must be kept in compliance with the Worcester Zoning Ordinance.
 10. No gambling shall be permitted on the premises.

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11. All licensees, as herein designated, are required to prohibit minors from attending any concert, dance, exhibition, cabaret or public show of any description, conducted on the licensed premises, in which or at which any person appears in a manner or attire as to expose to public view any portion of the pubic area, anus, or genitals, or any simulation thereof, or in which or at which any view of any portion of the breast below the top of the areola, or any simulation thereof.
12. Sound or Noise Generated by Licensed Entertainment
 - a. Sound or noise generated by entertainment licensed hereunder shall not be plainly audible on a residential property at a distance of fifty (50) feet or more beyond the property boundary of the licensed premises Sunday through Thursday between 9:00 p.m. and 9:00 a.m. the following day, or Friday and Saturday between 10:00 p.m. and 9:00 a.m. the following day.
 - b. No sound or noise generated by entertainment licensed hereunder shall be plainly audible at any location one hundred fifty (150) feet beyond the property boundary of the licensed premises at all other times.
13. The Commission shall approve a complete and properly filed application for entertainment unless it determines that factors, such that taken alone or in combination with other licensed activities on the premises or in the near vicinity, would adversely affect the public health, safety or order, or that the licensed activity could not be conducted in a manner so as to: a) protect employees, patrons, and members of the public inside or outside the licensed premises from disruptive conduct, criminal activity, or from health, safety or fire hazards; (b) prevent an unreasonable increase in the level of noise in the area caused by the licensed activity or caused by patrons entering or leaving the premises; or (c) prevent an unreasonable increase in the level of pedestrian or vehicular traffic in the area of the premises or an unreasonable increase in the number of vehicles to be parked in the area of the premises.
14. In addition to any specific factors that may be set forth in these rules and regulations, the Commission may also place any conditions it deems reasonably necessary to protect the public health, safety and order.
15. The Commission may modify, suspend or revoke any license issued hereunder if after a duly held public hearing it finds that the licensee has adversely affected the protection, health, welfare, safety or repose of the residents of the City or if the licensee violates any rule or regulation issued by the Commission, any local ordinance or any law of the Commonwealth.
16. If the Commission denies an entertainment license application it shall do so in writing, within five (5) days of the public hearing.

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One Day Entertainment Licenses

Current holders of licenses issued pursuant to G.L. c. 140, §§ 181 and 183A, may apply to the Commission requesting to expand the categories of allowed entertainment on the licensed premises on a one-time, per event basis, or to extend the portion of the licensed premises where entertainment is allowed to occur on a one-time, per event basis.

A person or entity not possessing an entertainment license issued pursuant to G. L. c. 140, §§ 181 and 183A, but seeking to offer entertainment as described in said statutes on a one-time, per event basis, as part of its usual business shall apply to the Commission.

Any person or entity applying for a one day liquor license pursuant to G.L. c. 138, § 14, seeking to offer entertainment as described in said statutes on a one-time, per event basis, shall also apply to the Commission.

17. One day entertainment licensees must comply with these rules and regulations, any rules and regulations issued by the Commission, the Revised Ordinances of the City of Worcester, the Worcester Zoning Ordinance and any other state or local laws, rules and regulations, as amended from time to time.
18. An existing entertainment licensee pursuant to G.L. c. 140, §§ 181 and 183A may be granted up to five (5) one day entertainment licenses per calendar year.

Deviations from Sound Limits for Entertainment

Any entertainment licensee or one day entertainment licensee may apply to the Commission for a modification of the standard sound limits as specified above in rule 12, as follows:

19. Application Process. The applicant shall request modified sound limits in conjunction with an application for a new or amended entertainment license, or a one day entertainment license. Such application shall, at a minimum, include the following information:
 - a. A description of the place where entertainment shall take place;
 - b. A description of the entertainment to be provided;
 - c. Noise control and mitigation measures, especially as pertaining to potentially affected residences, businesses and institutions;
 - d. Dates and hours of operation;
 - e. Person responsible for the event and contact information; and,
 - f. Any other information that the Commission, at its discretion, deems necessary and is reasonably related to the consideration of a particular application.
20. Abutter Notification. Applicants seeking modification of sound limits must notify abutters and abutters to abutters within 200 hundred feet of the property line by certified mail and return receipt, not less than ten (10) days prior to the Commission hearing on the license application. Applicants must submit the return receipts to the

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Commission at time of hearing. (The Commission cannot approve a request to modify sound limits without the return receipts as proof of abutter notification.).

21. Approval criteria. The Commission shall determine whether the proposed activity will unreasonably increase the level of noise in the area by considering the following criteria:
- a. Characteristics of the sounds to be permitted, including sound levels, time of day, duration of sound, sound mitigation measures, and type of sound;
 - b. The potential for combined noise impacts associated with other nearby uses;
 - c. The history of prior noise complaints and violations generated at the premises by the licensee;
 - d. The zoning district of the area within which the noise emanates as well as that which it effects;
 - e. The proximity to other properties, especially residential uses; and,
 - f. Plan of the proposed licensed premises and the location of the entertainment within that plan.
22. All licenses shall be subject to general or specific provisions, if any, set forth therein, and may contain conditions, safeguards and limitations of time, sound level, type and duration.

Adopted by the Commission on _____