



Noise Variance Application

This variance application is provided in conjunction with the Cedar Springs Code of Ordinances Article III Noise. Sec. 14-86 allows for a variance from subsections (1) thru (8) of Sec. 14-84 (attached for applicant information.)

APPLICANT NAME: _____

CONTACT PERSON: _____

MAILING ADDRESS: _____ CITY: _____ ZIP: _____

PHONE: (____) _____ - _____ CELL HOME WORK

EMAIL: _____ @ _____

PROPERTY ADDRESS OF VARIANCE REQUEST: _____

PARCEL NUMBER: 41-____ - ____ - ____ - ____ - ____ CURRENT ZONING: _____

IS APPLICANT ALSO OWNER?: Yes No

IF NO, PROPERTY OWNER: _____

CONTACT PERSON: _____ PHONE: (____) _____ - _____

HAS PROPERTY OWNER PROVIDED WRITTEN PERMISSION? Yes No

PLEASE ATTACH A WRITTEN NARRATIVE THAT ADDRESSES THE REASONS WHY THE VARIANCE IS NECESSARY. THIS NARRATIVE WILL BE INCLUDED IN THE NOTICES MAILED TO PROPERTY OWNERS WITHIN 300' OF THE SUBJECT PROPERTY AND SHOULD SPECIFICALLY ADDRESS THE FACTORS OUTLINED SEC. 14-86(5) WHICH IS ATTACHED TO THIS APPLICATION.

APPLICANT SIGNATURE: _____ DATE: ____ / ____ / ____

City of Cedar Springs NOISE VARIANCE - Property Sketch

- A complete and accurate drawing is required for all permits.
- Applicant may attach drawing or use scale below.

Address: _____ Parcel #: 41-_____-_____-_____-_____

Please show and label the zoning districts on all four sides of the property or attached a sheet that depicts the zoning:

	ZONING _____	N ↑
ZONING _____		ZONING _____
	ZONING _____	

HAS APPLICANT MET THE REQUIREMENTS OF SEC. 14-86(3)a? YES NO

IF YES, DATES PUBLISHED? ___/___/___ ___/___/___

IN WHAT NEWSPAPER? _____

HEARING DATE: ___/___/___ DATE PUBLICATION NOTICE: _____

DATE 300 FEET LETTERS SENT: ___/___/___

DECISION OF COUNCIL: Grant Deny DATE: ___/___/___

CITY MANAGER APPROVAL: Yes No Date: ___/___/___

SIGNATURE: _____

Sec. 14-86. - Variances.

The provisions of this article shall not apply to those events, activities or locations which have been granted a variance, as set out in subsections (1) through (8) of this section, by the city council.

(1)

The city council shall have the authority to grant variances subject to the conditions and under the circumstances set out in this section. These variances, to be known and entitled as noise variances, shall exclude the event, activity or location for which the permit is issued from the operation and requirements of this article, subject to the provisions of this section.

(2)

Any person seeking a variance pursuant to this section shall file an application with the city clerk on a form prescribed by the city manager. Upon receiving such an application, the clerk shall submit it to the city manager. Upon receipt of an application, the city manager shall cause such investigation as the city manager deems necessary to be made concerning the application. This investigation may include, but is not be limited to, consulting with such city departments as the city manager may deem necessary or desirable. The city manager, subject to the provisions of subsection (3) of this section may, in the city manager's discretion, cause a public hearing to be held on any application for a noise variance. If no public hearing is held, the city manager, subject to the provisions of subsection (3) of this section, shall allow interested parties to submit written comments concerning an application for a noise variance. The applicant shall, prior to the investigation of the application by the city manager, cause a public notice of said application for a noise variance to be published at least twice in a daily newspaper of general circulation published in the city, in a form prescribed by the city manager.

(3)

The city manager, in addition to such other investigation as the city manager may deem necessary:

a.

Shall require the applicant to show that the notice requirements herein provided for have been met;

b.

Shall permit the applicant to offer such evidence as it desires to establish the applicant's position that a variance should be granted;

c.

Shall permit those opposing the applicant's request for a variance to offer evidence in opposition to the granting of a variance;

d.

May, in the city manager's discretion, refuse to receive or hear evidence that is merely cumulative, and may reasonably limit the time allowed to present evidence by those supporting and those opposing the application.

(4)

The city manager shall consider all evidence received pursuant to this section and based upon this evidence and the results of the city manager's investigation, shall make a recommendation to the city council as to whether a noise variance should be granted. The

city manager shall make a recommendation based upon the factors set out in subsection (5), and shall state the reasons for that recommendation in writing. The application and the recommendation of the city manager shall be placed on the agenda of the city council. In deciding whether to grant the noise variance, the city council shall consider the factors set out in subsection (5) of this section. The city council shall, by resolution, grant, grant with conditions or deny the variance. If a resolution approving a noise variance is passed, the city clerk shall issue a noise variance subject to the terms of this section.

(5)

The following factors shall be considered in determining whether to grant the variance;

a.

The balance of the hardship to the applicant, the community and other persons in not granting the variance against the adverse impact on the health, safety and welfare of persons adversely affected and any other effects of the granting of the variance.

b.

The number, if any, of previous variances granted to the applicant, or for the same location or activity.

c.

The nearness of any residence, or any other use which would be adversely affected by noise permitted by the variance.

d.

Whether the type of noise to be produced by the event is usual or unusual for the location or area for which the variance is requested.

e.

The density of population of the area in which the event or activity is to take place.

f.

The time of day or night which the activity or event will take place.

g.

The nature of the sound to be produced including, but is not limited to, whether the sound will be steady, intermittent or of a repetitive impulse nature.

(6)

Neither the city manager nor the city council shall consider the communicative content of the activity or event in determining whether to grant or deny a variance. The rights of all interested persons to due process of law and equal protection of law shall not be denied.

(7)

Variances shall only be granted subject to the following conditions:

a.

The event or activity for which the permit is sought shall be held in a public place.

b.

The event or activity for which the permit is sought shall be open to the public. There shall be no discrimination on the basis of race, color, creed, national origin or sex.

c.

Any variances issued shall be subject to such reasonable conditions as the city council shall require including, but is not limited to, conditions limiting:

1.

The days of the week for which the variance is valid.

2.

The number of days for which the variance is valid.

3.

The hours of the day for which the variance is valid.

Such conditions shall be noted on the variance issued to the applicant and noncompliance with any condition of the variance shall terminate the variance and subject the applicant, event or activity to the provisions of this article. The variance shall not be valid unless all conditions thereof are agreed to by the applicant, or its duly authorized officer or agent, in writing.

(8)

Any variance issued pursuant to this section shall be kept at the site of the event or activity for which the variance was obtained. The variance shall be displayed, on request, to any law enforcement officer or city official. The requirements of this subsection are hereby made express conditions of the granting of the variance and failure to comply with these conditions shall cause the variance to terminate as provided for in subsection (7) of this section.