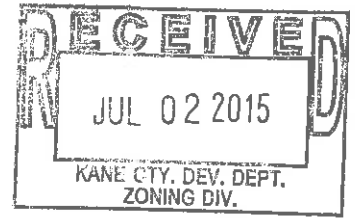


Law Offices
JOHNSON & BUH, LLC
524 W. State Street, Unit 2
Geneva, IL 60134

Phone: (630) 402-0416 / Fax: (630) 402-0419



July 1, 2015

John Hoscheit
Hoscheit, McGuirk, McCracken & Cuscaden, P.C.
1001 East Main Street, Suite G
Saint Charles, IL 60174

Mark D. Vankerkhoff
Kane County Development and Resource
719 Batavia Avenue
Geneva, IL 60134

Re: Zoning Petition No. 4346
(Hideaway Zoning)

Dear Sirs:

Over the last several weeks the County has expressed its concerns about the zoning petition of my client. The concerns that you specifically requested the petitioners address are as follows: Outside amplified sound; Traffic on local roads; Outside lighting; Septic system; and Hours of operation. I will address each concern individually.

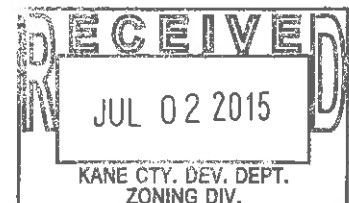
Outside amplified sound. As you are aware the owners intend to utilize one of the property's greatest assets, the river view. In their original plans tendered in their application they highlighted the request for an outside seating area to the restaurant. This request was met with the concern over outside amplified music. My client would agree to abide by noise restrictions placed specially on their use of the property that are more restrictive than set forth in the County Code. Our suggestion would be the same or similar provisions as set forth in the City of St. Charles's City Code. Specifically Chapter 9.24 of the Code. (Enclosed please find a copy of the St. Charles Code for your convenience). My clients have been abiding by this restriction without incident for years at their in town location. They feel the Regulation on Amplified Sounds for Mixed-Use Property places limitations on noise and is a sensible restriction that they could agree upon. However, please note that the use of amplified sound would be consistent with outside patio dining, not an outdoor rock concert.

Traffic on local roads. The owners are fully aware that the majority of the streets surrounding the property are residential in nature. However, the property subject to the petition is governed by the St. Charles Township Road District. My client has no control over signage, speed limit recommendations or the implementation of speedbumps. All efforts will be made and full cooperation will be given to the Township in following all mandates, recommendations or helpful suggestions to guarantee road safety.

Outside lighting. Concerns have been raised that a lighting system on the property could interfere with the neighborhood's evening sky enjoyment. My client would agree to install an outdoor luminary system for the restaurant, parking and pedestrian areas that limits glare, up-light, light trespass and sky glow. Specifically, they would agree to install a full cutoff lighting system in the parking area. In addition, a nighttime friendly lighting system will be installed for the pedestrian area that will take into consideration light noise while maintaining the safety and security of restaurant patrons.

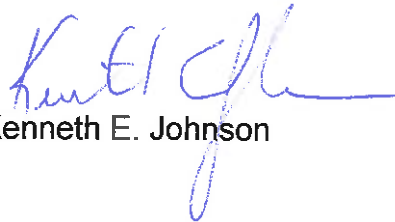
Septic system. The septic system currently on the property is in need of repair, modification or replacement. Development and Resource wanted an assurance that the owners of the property investigated the practicality and cost of the project. My client has been working with Environmental Design Service (EDS) for the last several months. The septic issue has been explored and priced. My client is fully aware of the cost needed to properly run the system. They have assurances from their engineer that a system can be developed to fit the building's needs. Their engineer recently sent an affirmation memorandum of the status of the septic to Development and Resource. I have enclosed a copy of the septic memorandum for your file.

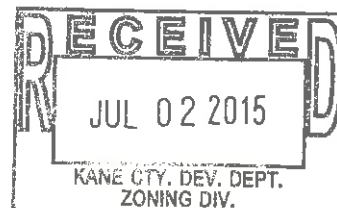
Hours of operation. The last and greatest concern seems to be hours of operation. The owners intend to operate the restaurant and bar as would any successful business in the county. They feel the previous restaurant failed because it did not capitalize on the hours available for use. The current owners intend to be open at 11:00 a.m. each day for lunch. One of the business's biggest market for patrons is local professional sporting events on television such as the Blackhawks, Cubs, Sox and Bears. The average sporting event lasts approximately 3 hours. Playoff events may last longer due to increases in commercials. Sports television is essential for their business to succeed. If a west coast game has a starting time of 8:00 p.m., the game normally will not end until after 11:00 p.m. The restaurant and bar need additional time to collect payments and conduct other customary restaurant services. My client believes in order to remain viable, having all patrons out by 12:00 a.m. during the week and 1:00 a.m. on Friday and Saturday is a reasonable request. If they were forced to ask patrons to leave prior to the end of a playoff game, their business plan would fail. Please note, they are not requesting 2:00 a.m. as previously licensed. Therefore, my client would agree to a restriction on the property for hours of operation Sunday thru Thursday 11:00 a.m. – 12:00 a.m. and Friday thru Saturday 11:00 a.m. – 1:00 a.m.

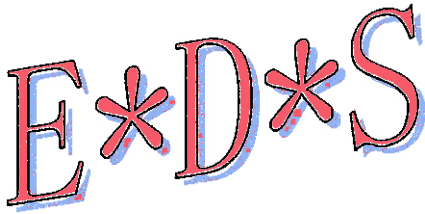


Please let me know if any additional amendments need to be made to the petition or if the proposed amendments listed in this correspondence are sufficient to proceed. If you have any questions or are in need of any additional information, please do not hesitate to contact me.

Sincerely,
JOHNSON & BUH, LLC


Kenneth E. Johnson





**ENVIRONMENTAL
DESIGN SERVICE**

**Designers of On-Site Waste
since 1985
email: e-d-s@mchsi.com**

MEMORANDUM

Date: 6/29/15

RE: Hide Away Restaurant, Fox River Heights Subdivision, St Charles Township, Kane County, Illinois

Job #: 14-182



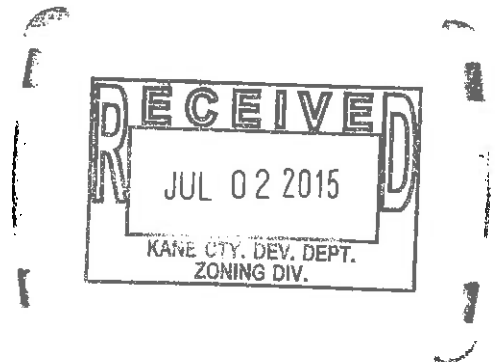
Julie,

Environmental Design Service has been working with Jeremy Casiello on the Hide Away Restaurant project. We have also consulted with Chad Moorman regarding the installation of a Bio-Barrier Membrane system, discharging to the existing seepage pits on the property. Chad was agreeable to this solution.

Mr. Casiello is currently in the process of getting a topographical survey. Once we have that, we will order the double ring infiltrometer test and proceed with a septic design.

If you have any questions, please feel free to call the office.

Thank you,
Ted A. McCannon



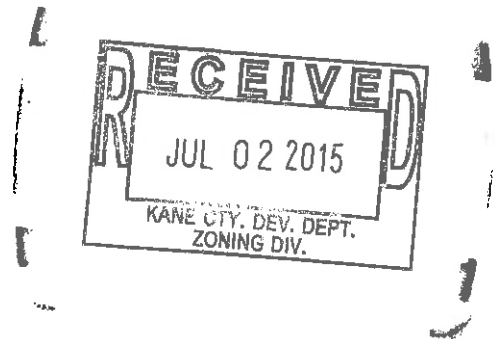
45W134 Raymond Rd.
Big Rock, IL 60511-9387

630-556-3100
630-556-4FAX (4329)

e-d-s@mchsi.com

Chapter 9.24

NOISE⁶



Sections:

- 9.24.010 Purpose, Intent and Declaration.
- 9.24.020 Noise-Generating Activities defined.
- 9.24.030 Property Classifications established.
- 9.24.040 Application of Noise Standards.
- 9.24.050 Applicability to Streets.
- 9.24.060 Regulation for Mixed-Use Property.
- 9.24.070 Regulation for Residential Property.
- 9.24.080 Regulation for Non-Residential Property.
- 9.24.090 Regulation for Non-Residential Property Adjacent to Residential Property
- 9.24.100 Exemptions.
- 9.24.110 Noise regulated by other provisions of this Code.
- 9.24.120 Noise-Generating Activity Prohibited – Penalty.
- 9.24.130 Presumption of Accountability.
- 9.24.140 Legal Remedies Not Impaired.

9.24.010 Purpose, Intent and Declaration.

The purpose of this Chapter 9.24 is to limit Noise-Generating Activities, which when conducted at specific times of the day, may annoy, disturb, injure, or endanger the comfort, repose, health, peace or safety of others within the City. Noise-Generating Activity conducted in violation of the provisions of this Chapter 9.24 is hereby declared a public nuisance.

(Ord. 2008-M-77 § 1; Prior code § 28.032.)

9.24.020 Noise-Generating Activities defined.

The following activities are hereby declared “Noise-Generating Activities” and are subject to the provisions as set forth in this Chapter 9.24:

Noise-Generating Activity	Descriptions
Refuse Collection	The collection of any type of refuse, garbage, recyclable materials, landscape waste, hazardous waste, construction debris, or any other waste or debris.
Construction Activity	All types of construction activity, whether or not a building permit is required, and any related deliveries of construction personnel, materials, tools or equipment.
Outdoor Maintenance Activity	Activities conducted outside or within a partially enclosed space, such as an open garage, that generate noise, including but not limited to: maintenance and repair of buildings, structures, lots, yards, landscaping, and vehicles or other mechanical equipment.
Truck Idling	The continuous running of engines or cooling units of a truck or semi-trailer while the vehicle is stationary.
Commercial Deliveries	The loading or unloading of products, materials, supplies or any other item from a truck or semi-trailer.
Amplified Sounds	Any stationary or portable electronic sound reproduction system utilizing

NOISE

	loudspeakers including but not limited to: amplified live or recorded music; public address systems; systems used to communicate with customers in vehicles; horns and signal devices; sound produced by any machine or other device for the amplification of the human voice, music or any other sound.
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(Ord. 2008-M-77 § 1; Prior code § 28.024.)

9.24.030 Property Classifications established.

The designations set forth below shall classify all properties within the corporate limits of the City into a Property Classification for purposes of establishing regulation of Noise-Generating Activities:

Property Classifications	Descriptions
Mixed-Use	Property contained in the following areas: -CBD-1 Central Business Zoning District as designated on the Official Zoning Map contained in Title 17 "Zoning", as amended.
Residential	A property containing a residential dwelling unit, except for Mixed-Use Property, regardless of zoning classification.
Non-Residential	All property not designated as a Residential Property or Mixed-Use Property
Non-Residential adjacent to Residential	Any Non-Residential Property located a distance of 300 ft. or less from a Residential Property, measured as the shortest distance from the property line of the Residential Property to the property line of the Non-Residential Property; except for Non-Residential Property which is entirely separated from a Residential Property by the following arterial streets: <input type="checkbox"/> Main Street <input type="checkbox"/> Randall Road <input type="checkbox"/> Kirk Road

(Ord. 2008-M-77 § 1; Prior code § 27.701.)

9.24.040 Application of Noise Standards.

For purposes of this Chapter 9.24, a noise shall be determined to be "clearly audible" when noise generated by a Noise-Generating Activity can be heard and readily differentiated from any ambient noise in the vicinity, including noise generated by vehicle traffic. A noise that is "clearly audible" may be constant, recurrent, or intermittent.

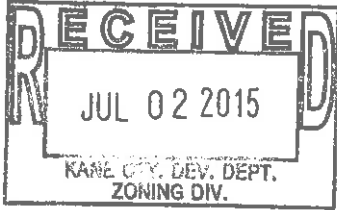
Locations used to determine if a noise is "clearly audible":

- A. Property line: Noise shall be measured outside along the perimeter of the property, including within the public right-of-way adjacent to the property line.
- B. Perimeter of the dwelling unit: Noise shall be measured inside or outside the building at a location adjacent to the unit, including common use hallways within the building.

(Ord. 2008-M-77 § 1; Prior code § 27.703.)

9.24.050 Applicability to Streets.

Provisions regulating Noise-Generating Activities on a property shall extend into all streets, including private streets and public rights-of-way, adjacent to said property. Where properties with different Property Classifications are adjacent to the same street, the provisions shall apply to only half of the street directly adjacent to the property. (Ord. 2008-M-77 § 1; Prior code § 27.702.)



9.24.060 Regulation for Mixed-Use Property.

The restrictions set forth below shall apply to Mixed-Use Property as designated under Section 9.24.030, and any streets adjacent thereto:

Noise-Generating Activity	Time Activity Prohibited or Subject to a Noise Standard	Noise Standard
Refuse Collection	Prohibited from 10:00 p.m. to 6:30 a.m.	-
Construction Activity	Prohibited from 10:00 p.m. to 7:00 a.m.	-
Outdoor Maintenance Activity	Prohibited from 10:00 p.m. to 7:00 a.m.	-
Commercial Deliveries	Subject to Noise Standard from 10:00 p.m. to 7:00 a.m.	Prohibited in streets. Shall not be clearly audible at the property line.
Amplified Sounds	Outdoors sources: Prohibited from 10:30 p.m. to 10:00 a.m. Indoor sources: Subjects to Noise Standard from 10:30 p.m. to 10:00 a.m.	Shall not be clearly audible at the property line. For residential dwelling units: Shall not be clearly audible at the perimeter of the dwelling unit.

(Ord. 2008-M-77 § 1; Prior code § 27.704.)

9.24.070 Regulation for Residential Property.

The restrictions set forth below shall apply to Residential Property as designated under Section 9.24.030, and any streets adjacent thereto:

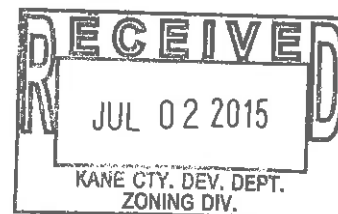
Noise-Generating Activity	Time Activity Prohibited or Subject to a Noise Standard	Noise Standard
Refuse Collection	Prohibited from 7:00 p.m. to 7:00 a.m.	-
Construction Activity	Prohibited from 7:00 p.m. to 7:00 a.m.	-
Outdoor Maintenance Activity	Prohibited from 10:00 p.m. to 7:00 a.m.	-
Amplified Sounds	Outdoor sources: Prohibited from 10:00 p.m. to 10:00 a.m. Indoor sources: Subject to noise standard from 10:00 p.m. to 10:00 a.m.	Single-Family Dwelling: Shall not be clearly audible at the property line. Multiple-Family Dwelling: Shall not be clearly audible at the perimeter of the dwelling unit.

(Ord. 2008-M-77 § 1; Prior code § 27.705.)

9.24.080 Regulation for Non-Residential Property.

Noise-Generating Activities shall not be restricted on Non-Residential Property, except for Non-Residential Property Adjacent to Residential Property as set forth in Section 9.24.090.

(Ord. 2008-M-77 § 1; Prior code § 27.706.)



9.24.090 Regulation for Non-Residential Property Adjacent to Residential Property

The restrictions set forth in this section shall apply to Non-Residential Property adjacent to Residential Property, as defined in Section 9.24.030, and any streets adjacent thereto:

Noise-Generating Activity	Time Activity Prohibited or Subject to a Noise Standard	Noise Standard
Refuse Collection	Prohibited from 10:00 p.m. to 6:00 a.m.	-
Construction Activity	Prohibited from 10:00 p.m. to 6:00 a.m.	-
Outdoor Maintenance Activity	Subject to noise standard from 10:00 p.m. to 6:00 a.m.	Prohibited in streets. Shall not be clearly audible at the perimeter of the property, measured at a location along the property line that is adjacent to a Residential Lot.
Commercial Deliveries	Subject to noise standard from 10:00 p.m. to 6:00 a.m.	
Truck Idling	Subject to noise standard from 10:00 p.m. to 6:00 a.m.	
Amplified Sounds	Outdoor sources: Prohibited from 10:00 p.m. to 7:00 a.m. Indoor sources: Subject to noise standard from 10:00 p.m. to 7:00 a.m.	

(Ord. 2008-M-77 § 1.)

9.24.100 Exemptions.

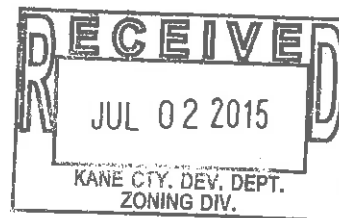
The activities set forth below shall be exempt from the provisions of this Chapter 9.24:

1. Activities conducted by any governmental entity.
2. Emergency building, infrastructure, or utility repairs in response to natural disasters, accidents, equipment or structural failures, or other public safety concerns.
3. Emergency noises, including: the operation of any emergency vehicle or apparatus and related radios, sirens, horns, and bells; cries for assistance, warning calls, or sirens used to alert persons of an emergency, danger, or crime; security and fire alarms.
4. Snow removal.
5. Noise generated by the use of a property which is specifically regulated by the provisions of Title 17, Chapter 17.20, as amended, when a specific standard regulating noise levels or hours of operation is contained therein, including but not limited to Temporary Outdoor Entertainment and Outdoor Dining, as defined in Title 17.
6. Any noise generated by locomotive engines and train cars.
7. Parades, fireworks, cultural events/activities, special events and other activities authorized by the City Council.

(Ord. 2008-M-77 § 1.)

9.24.110 Noise regulated by other provisions of this Code.

Regulation of noise contained elsewhere in this code shall be separate from the provisions of this Chapter 9.24, including but not limited to provisions contained in Title 6, "Animals"; Title 10, "Vehicles and Traffic"; and Title 17, "Zoning". In case of conflict with this Chapter, the most restrictive regulation shall control.



(Ord. 2008-M-77 § 1.)

9.24.120 Noise-Generating Activity Prohibited – Penalty.

It shall be unlawful for any person to make or to continue, cause or to knowingly allow a Noise-Generating Activity, as defined in Section 9.24.020, in violation of this Chapter.

Notwithstanding any other provision of this code, any person violating any provisions of this Chapter 9.24 shall be subject to a fine not less than those established in the schedule set forth below and not more than seven hundred fifty dollars (\$750):

<u>Description of Violation</u>	<u>Minimum Fine Amount</u>
First violation in any 365 day period	\$50.00
Second violation in any 365 day period	\$200.00
Third violation in any 365 day period	\$300.00
Fourth violation in any 365 day period	\$400.00
Fifth and subsequent violations in any 365 day period	\$500.00

For purposes of this Chapter 9.24, and in determining the appropriate amount due hereunder:

- A. Each day a violation occurs or continues shall be deemed a separate violation.
- B. All violations of any provision of this Chapter 9.24 that are committed by the same person, or any firm controlled by such person, shall be deemed a separate violation, regardless of whether or not the violations occur at the same location.

(Ord. 2008-M-77 § 1.)

9.24.130 Presumption of Accountability.

The occupant or the agent of the occupant of the property, who shall knowingly permit another person to create a noise or conduct an activity in violation of this Chapter, shall be deemed responsible for the noise or activity to the same extent as the person creating the noise or conducting the activity and shall be subject to the same penalty.

Any person in charge of operating, ordering, directing or allowing the operation or maintenance of the motor vehicle, device, or machine creating a Noise-Generating Activity as prohibited in this Chapter, shall be deemed guilty of violating this chapter.

(Ord. 2008-M-77 § 1.)

9.24.140 Legal Remedies Not Impaired.

Nothing in this Chapter shall be construed to impair, in any way, any cause of action or other legal or equitable remedy therefore of any person or the public for injury or damage arising from the emission or release into the atmosphere or ground from any source whatever of noise or earthshaking vibration in such place or manner or at such levels, so as to constitute a common law nuisance.

(Ord. 2008-M-77 § 1.)

