



## Karen Kastenson

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**From:** DANA KERR <kerrconsulting@msn.com>  
**Sent:** Monday, January 2, 2023 3:13 PM  
**To:** Karen Kastenson; Kristen Wilhelm, Shari Hanneman, Michelle Eichmann  
**Subject:** Fw: Unpermitted Events at the Rock / Ballpark Commons 2022  
**Attachments:** Neighbor Letter - Events without Permit 12 13 2022.docx

Dear License Committee Alderwomen and Franklin Clerk Ms. Kastenson, upon further review there are 19 additional events that occurred without permits in 2022. This pattern of non-compliance with ordinances and policy has been an ongoing chronic issue for numerous years. All events broadcasting noise, including the unpermitted ones, create a noise nuisance for surrounding neighbors. Citizens are tired of being ignored and treated differently than all other residential neighborhoods. It is unlawful and offensive that this noise nuisance has been allowed to perpetuate the destruction of quality of life and quiet enjoyment for over 9 years. Everyone knows there are problems with compliance of policy, ordinances and regulations but nothing is done to remedy this egregious problem.

The 23 unpermitted events supplied previously need to be investigated as well as these additional 19 unpermitted events with live music:

June 2, 9, 16, 23, 30, and July 7, 14, 21, 28, and August 4, 11, 18, 25 and September 1, 8, 15, 22, 29,

The 40 unpermitted events in 2022 need to be investigated and reported to the Common Council and Police Department and citations issued. Penalties and citations for all these unpermitted events for noncompliance with established procedures in addition to violations of nearly 20 pages related to noise, nuisances, general standards, ordinances need to be implemented. Making up rules related to the PDD have nothing to do with the surrounding areas, the receiving abutting district standards apply to the property line as reported by the Franklin Planning Staff 11-23-2020.

Some paragraphs from Franklin Municipal Code and Ordinances that are perpetually non-compliance are listed below:

## Article 121 Entertainments and Amusements

### General Provisions

#### § 121-5 Entertainment and amusement regulations.

[Added 6-2-1998 by Ord. No. 98-1498<sup>m</sup>]

All licensees, licensees' employees, persons under the direct supervision and control of a licensee and the premises supporting the activities for which an entertainment and amusement license has been granted under this section shall be subject to the following terms and conditions.

#### A.

Law compliance. The entertainment and amusement activities and all activities conducted or arising incidental or accessory thereto **shall in all respects comply with the provisions of this section and all other applicable rules, regulations, orders, ordinances and statutes.** The premises or place supporting entertainment and amusement license activities shall comply in all respects with the provisions of this section and all other applicable rules, regulations, orders, ordinances and statutes, specifically including, but not limited to, zoning regulations, building code requirements, fire prevention code and health code requirements.

(7)  
**Noise.** No licensee shall permit any sound created by the special event activity to carry unreasonably beyond the boundaries of the special event premises.

F.  
Application.

(1)  
Any person intending to hold, sponsor or produce a special event shall make written application for a special event license and file same with the City Clerk at least 30 working days prior to the date of the special event.

Commentary: many applications are submitted AFTER being advertised for weeks and submitted just days before the event, even instances of without 24-hour advance notice of the public meeting. Which require special meetings or amendment of agendas, to accommodate special events which harm the quiet enjoyment of surrounding areas just days later.

(2)  
The application shall contain a statement made upon oath or affirmation that the statements contained therein are true and correct to the best knowledge of the applicant and shall be signed and sworn to or affirmed by the individual making application in the case of an individual, by an authorized officer in the case of a corporation, by a general partner in the case of a partnership or by all officers of an unincorporated association, society or group or, if there be no officers, by all members of such association, society or group.

Commentary: this statement should be clarified that public presentations, testimony, documents, plans are all considered part of the "application" process

(3)  
The application shall contain and disclose:

(d)  
Proof of ownership of all property upon which the special event is to be held or a statement made upon oath or affirmation by the record owner(s) of all such

**property that the applicant has permission to use such property for the special event.** (Commentary: most special permits and plans from 2013 to 2018 did not have the written approval of the owner of the land, Milwaukee County)

**(s)**

**The plans for sound control and sound amplification, if any, including number, location and power of amplifiers and speakers.**

(Commentary: The vast majority of permit applications for special events do not supply any detail on specific steps to control the sound. The applicant does not answer the question. The sound control responses on the applications chronically do NOT identify the steps to mitigate noise from **carrying unreasonably beyond the boundaries of the special event premises**, which is required under this ordinance)

The problem of noise emanating across property lines is one involving design and technical violations as indicated by the Franklin Planning Manager OVER TWO years ago in the November 23, 2020 report. This noise level needs to apply to all events, including unpermitted events. Many more unpermitted events occurred in 2020, 2021 and years prior.

The "sound monitors" are set to record at 65 decibels, which is 15 decibels (20 decibels after 10 pm) ABOVE the maximum standard indicated by the Franklin professional staff. This appears to be an intentional manipulation to avoid accurate recording / reporting.

What legislative action determined the sound monitors would be set to record at 65 decibels? Noise Disturbances across property lines is Prohibited. PERIOD. Any noise above 50 decibels is in violation of the residential zoning district that abuts this development. 65 dBA is the maximum permitted decibel level for the Manufacturing and the Airport Overlay districts in Franklin. WHY would that be the standard to set the monitors to record instead of the 50 decibels properly applied to the property line of residential homes?

The Franklin Ordinances / Codes Chapter 183-40 indicates NOISE DISTURBANCES PROHIBITED  
**No person shall make, continue, cause to be made or permit operation of any device**

[https://www.franklinwi.gov/Files/Agendas/2020/Dec2020/CC Mtg Packet 12-1-2020.pdf](https://www.franklinwi.gov/Files/Agendas/2020/Dec2020/CC_Mtg_Packet_12-1-2020.pdf)  
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***"It should also be noted that the sound limit of 79 dBA is significantly higher than that permitted in "all residential districts," which is 50 dBA during the daytime and 45 dBA at night (10:00 p.m. to 7:00 a.m.), as the UDO Section 15-3.1107 standards are understood to apply to the receiving district as well as the originating district. This means that technically speaking a violation of the sound standard at the district line is more material than one originating in PDD 37. "***

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***“It’s important to recognize that the current situation surrounding Franklin Field, and to a lesser extent the Umbrella Bar, is one involving design. Design of the Rock Sports Complex, and particularly Franklin Field, is linked to the current noise issues, just as much as the lack of a comprehensive understanding of sound in the area generally. Significant design issues were not addressed at the onset that would have at least reduced the magnitude of the noise problem.”***

The noise crossing into the surrounding areas for nearly a decade for hundreds of events each year is not compliant with this standard reported by the Franklin professional planning staff over 2 years ago. The noise carries for miles beyond the boundaries of this development and is well documented by complaints for nearly a decade. According to the Franklin Planning Manager report of 11-23-2020 the maximum decibel level at the residential property line shared by this development is required to be 50 decibels / 45 decibels after 10 pm. It is nonsensical that PDD standards for noise would apply to adjacent residential property. 50 decibels is the maximum allowance for all activities at the property line to be compliant with the intention and spirit of the ordinance to protect citizens from noise nuisances.

This neighborhood is consistently treated differently than any other neighborhood for hundreds of events each and every year, many unpermitted or improperly permitted. This is not some weekend civic celebration or church festival but hundreds of events broadcasting noise each year, many past 10 pm crossing into surrounding districts.

**I am not aware of any neighbors requesting the development be closed down. But what is being requested over and over is that the operations follow the intention and spirit of the rules, regulations, process, ordinances and codes established to protect citizens from adverse harm. The interference in the use and enjoyment of our private homes needs to cease. The 9 years of disregard for the quality of life of citizens surrounding this facility needs to come to an end. The noise needs to be a maximum of 50 decibels at the property line as indicated by ordinance, code and reported by the Planning Manager on 11-23-2020.**

**If this development had proper planning and review, this would not be a continuous problem.**

**Unpermitted events, inaccurate applications and improper review need to be unacceptable for this or any other development. Documentation regarding the unpermitted events and violations to permits should be part of the master administrative file for a development and part of the review process for any future event.**

I appreciate your consideration to make steps to finally protect the surrounding neighborhoods and parks from unwanted noise including from unpermitted events.

Dana Gindt

414-403-6838

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**From:** DANA KERR

**Sent:** Wednesday, December 14, 2022 7:23 AM

**To:** kwilhelm@FranklinWi.gov <kwilhelm@FranklinWi.gov>; shanneman@franklinwi.gov <shanneman@franklinwi.gov>; Michelle Eichmann <MEichmann@franklinwi.gov>; Karen Kastenson <KKastenson@franklinwi.gov>

**Subject:** Unpermitted Events at the Rock / Ballpark Commons 2022

Dear License Committee members and City Clerk Ms. Kastenson, during the License Committee meeting this month it was discussed that the concerns raised by residents surrounding the Rock Sports Complex / Ballpark Commons related to unpermitted events be separated from the fireworks review.

The concerns regarding unpermitted events, including a list of dates, were submitted on 11/10/22 and requested to be discussed at a future meeting.

The dates of those events of concern are contained in the attached letter. Including the request for the License Committee to commence research and evaluation into the permitting process for special events.

Thank you for the consideration of these concerns.

## Special Event Process

Date: November 13, 2022

To: City of Franklin License Committee

From: Residents impacted by noise from the Rock / Ballpark Commons

Subject: Noise Nuisance from the Rock Sports Complex from unpermitted events

We are requesting the License committee to direct staff to research the events held at the Rock Sports Complex / Ballpark Commons in 2022 which neighbors believe were unpermitted.

Details of the permitting process including who approves and reviews the initial applications for Extraordinary Entertainment Special Events prior to being placed on the License Committee is requested to be included in the report related to unpermitted events.

Of concern is specifically the information on Extraordinary Entertainment Special Event applications related to sound control. Item 11. The applications submitted often are incomplete and do not address the issues of noise control. Applications often do not answer the question of sound control related to amplification, power, location, number, orientation of speakers. Nor define specifically what ordinance they are following. This application should be revised to be more specific and thorough with a clear procedural process.

Neighbors were aware of unpermitted events because of the disruptive noise crossing into the residential areas around this development. There appears to be no application and no permit for these events.

Below is a list of some dates that broadcast disruptive noise into the surrounding areas across the development property / boundary line. Per the City Planning Manager report 11-23-2020 the maximum decibel level at the residential property line is determined by the receiving or more restrictive district. As the Planning Manager presented, the maximum level allowed is 50 dbA from 7 am to 10 pm then from 10 pm to 7 am 45 dbA at the property line. Many events at this development operate past 10:00 pm.

The following 17 events have likely occurred in 2022 without a permit or proper review: (Plus 5 dates are still pending) Unpermitted events occurred in previous years also.

July 3, 4, 2022, August 25, 2022, September 2, 3, 4, 6, 12, 16, 17, 18, 2022, December 2,3, 4, 9, 10, 11, (17, 18, 22, 23, 24).

Nearly all of these events at the Rock / Ballpark Commons were disruptive to surrounding residents. We request that research be completed for these dates and a report be included on a future License Committee meeting and Common Council as a separate agenda item. That the information includes a summary of what action will be taken for the unpermitted events, including the fireworks.

Concerns and requests include the following:

- 1) Unpermitted events need to be investigated and reported on the License Committee and Common Council as a separate agenda item. Above are some dates believed to be unpermitted.
- 2) Details and explanation of what action including citations will be issued for any events found to have occurred without a permit.
- 3) Clarification and revision of the application process for extraordinary entertainment special events.
- 4) A disclaimer needs to be added to the application and ordinance regarding events that are advertised before permits are approved will be at the operator's own risk and applications must be

submitted a minimum of 30 working days prior to the event and actually enforce this existing part of the application.

- 5) Applications that include a series of events that span over several weeks or months should require a separate review prior to each additional month or bi-weekly to evaluate compliance with ordinances, presentations, permits, regulations and to mitigate noise disturbances or issues that need to be addressed.
- 6) Applications related to Extraordinary Entertainment / Special Events need to be included on the License Committee and Common Council packet. Including all related materials and plans.
- 7) Public comment should be permitted during License Committee agenda items for Extraordinary Entertainment / Special event/ Fireworks applications.
- 8) Audio for the Extraordinary Entertainment Special Event portions of the License Committee need to be included on the Franklin website.

Surrounding residents request that research into 2022 unpermitted events at the Rock Sports Complex / BPC be included in a report to the License Committee and Common Council as a separate agenda item after research is completed in a timely manner.

Respectfully,

Dana Gindt, 9011 West Hawthorne Lane, Franklin

Donnella Mc Adams, 8735 Hawthorne Court, Franklin

Dale Kirner, 8630 West Hawthorne, Franklin

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Andy Kleist, 6025 Parkview Road, Greendale

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