

ORDINANCE NO. _____

1 **AN ORDINANCE REPEALING AND REPLACING CITY CODE CHAPTER 9-2**
2 **RELATING TO NOISE AND SOUND; AMENDING CITY CODE TITLE 4 TO**
3 **ADD CHAPTER 4-20 RELATING SOUND PERMITS; AND CREATING**
4 **OFFENSES AND ESTABLISHING PENALTIES.**

5 **BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

6 **PART 1.** Chapter 9-2 (*Noise and Amplified Sound*) of the City Code is repealed
7 and replaced to read as follows:

8 **CHAPTER 9-2 NOISE**

9 **ARTICLE 1. GENERAL PROVISIONS**

10 **§ 9-2-1 DEFINITIONS.**

11 In this chapter:

- 12 (1) DECIBEL means sound pressure levels as measured by a sound level
13 meter using the “A” weighing network, the “C” weighing network, or
14 the slow or fast meter response as specified by the American National
15 Standards Institute.
- 16 (2) NOISE means sound which
17 (a) disturbs a reasonable person of normal sensibilities; or
18 (b) is louder than permitted by this chapter.
- 19 (3) SOUND EQUIPMENT means a loud speaker, microphone, public
20 address system, amplification system, turntable, or other similar
21 digital or analog device.
- 22 (4) WATERCRAFT means a boat or other structure designed to float on
23 water.

24 **§ 9-2-2 APPLICABILITY.**

25 This chapter does not apply to:

- 26 (1) an employee of a governmental entity engaged in the employee’s
27 official duty;
- 28 (2) a person operating a bell for religious activity;

- (3) a person operating an authorized emergency vehicle, as defined in Texas Transportation Code Section 541.201; or
- (4) a person operating an audible warning device on a vehicle or train as required by state law.

§ 9-2-3 RESTRICTIONS.

(A) A person may not:

- (1) operate, or allow another to operate, sound equipment that exceeds 85 decibels when measured at the property line;
- (2) operate or allow another to operate sound equipment in a watercraft that is audible or causes vibrations 100 feet from the watercraft;
- (3) operate or allow another to operate a machine that separates, gathers, grades, loads, or unloads sand, rock, or gravel within 600 feet of a residence, church, hospital, hotel, or motel between 7:00 p.m. and 6:00 a.m., except for the installation of concrete as authorized under Section 4-20-20 (*Permit for Concrete Installation During Non-Peak Hour Periods*); or
- (4) use or allow another to use a vehicle, equipment, attachment, or device associated with a vehicle, for cold hold, refrigeration, or freezing of any consumable food or beverages product, including water in any form such as consumer ice or ice used to refrigerate food or beverage, between 7:00 p.m. and 6:00 a.m. if noise or sound originating from the vehicle or any associated equipment is audible or causes vibration at a residence.

(B) A person may not operate or allow another to operate sound equipment at a residence that:

- (1) is audible beyond the property line between 10:00 p.m. and 10:00 a.m.; or
- (2) exceeds 75 decibels measured at the property line.

(C) Unless a person obtains the applicable permit required in Chapter 4-20 (*Sound Permits*), a person may not

- (1) make or allow another to make noise or play a musical instrument audible to an adjacent business or residence between 10:30 p.m. and 7:00 a.m.;

- (2) operate or allow another to operate sound equipment that causes vibrations to an adjacent business or residence between 10:30 p.m. and 7:00 a.m.; or
- (3) operate or allow another to operate sound equipment in a vehicle that is audible or causes vibrations 30 feet from the vehicle.
- (D) A person may not operate, or allow another to operate, sound equipment at a business that is audible at the property line between 2:00 a.m. and 10:00 a.m..
- (E) It is an affirmative defense to a violation of Subsection (A), (B), or (C) that:
- (1) the audible sound or vibration occurred when the vehicle or associated equipment or device was being actively loaded, unloaded, or serviced in a manner that complied with all applicable codes, ordinances, and regulations;
- (2) the audible sound or vibration:
- (a) occurred when the use of the vehicle or associated equipment or device occurred for a period of 48 hours or less on or adjacent to the premises of a business licensed by Austin Public Health to prepare, serve, or sell consumable food or beverage items;
- (b) occurred when a documented emergency at the licensed premises prevented or compromised the compliant operation of equipment necessary for food safety; and
- (c) that the use was the minimum necessary for the licensee to achieve or maintain temporary cold hold, refrigeration, or freezing of potential hazardous food products; or
- (3) at least 48 hours in advance of the alleged conduct:
- (a) the person charged obtained consent to the noise or vibration, as described in this chapter, from at least one adult resident of each affected dwelling unit located on a premises within 600 feet of the location where the vibration or sound was apparent; and
- (b) consent was provided in writing, on a form approved by the City.
- (F) In this section, a documented emergency includes an equipment or utility failure or malfunction.

1 **§ 9-2-4 RULES.**

2 The City Manager may adopt rules under Chapter 1-2 (*Adoption of Rules*) to
3 implement, administer or enforce this chapter.

4 **§ 9-2-5 OFFENSES.**

- 5 (A) A person commits an offense if the person fails to comply with this chapter.
- 6 (B) An offense under this chapter is a Class C misdemeanor.
- 7 (C) An offense under this chapter is punishable as set forth in Section 1-1-99
8 (*Offenses; General Penalty*).
- 9 (D) Each occurrence of a violation of this chapter is separate offense.
- 10 (E) A culpable mental state is not required for the commission of an offense
11 under this chapter, and need not be proved.
- 12 (F) A violation of this chapter is a nuisance. A criminal prosecution under this
13 chapter does not limit the City's right to abate the nuisance, including the
14 use of injunctive relief.

15 **PART 2.** Title 4 of the City Code is amended to add Chapter 4-20 (*Sound Permits*) to
16 read as follows:

17 **CHAPTER 4-20 SOUND PERMITS**

18 **ARTICLE 1. GENERAL PROVISIONS.**

19 **§ 4-20-1 DEFINITIONS.**

20 In this chapter:

- 21 (1) **ACCOUNTABLE OFFICIAL** means the City officer or employee
22 designated by the City Manager with a particular administrative or
23 enforcement responsibility under this chapter.
- 24 (2) **AMPLIFIED SOUND** means voice, instruments, or other sound that
25 is made louder using sound equipment.
- 26 (3) **DECIBEL** means sound pressure levels as measured by a sound level
27 meter using the "A" weighing network, the "C" weighing network, or
28 the slow or fast meter response as specified by the American National
29 Standards Institute.

- (4) GOOD NEIGHBOR POLICY means good business practices required as a condition of an amplified sound permit issued under this chapter.
- (5) INTERESTED PARTY means a registered neighborhood organization whose declared boundaries are within 600 feet of the premises included in the application; an individual who is the notice owner of a single-family use located within 600 feet of the premises included in the application; or multi-family use located adjacent to the premises included in the application.
- (6) OUTDOOR VENUE means a non-residential premises where amplified sound occurs but not within a fully enclosed structure. A structure is fully enclosed when it has permanent solid walls and a roof. A wall is not solid if part of the wall is comprised of operable openings, such as overhead doors, sliding windows or doors, swinging windows or doors, folding or accordion style windows, or wall systems in a cumulative area greater than 50 square feet
- (7) PREMISES means real property and any improvements on the real property.
- (8) RESIDENTIAL PREMISES means a premises zoned and used as residential.
- (9) RESPONSIBLE PERSON means a sound engineer, audio professional, or other person authorized to make decisions regarding the operation of sound equipment pursuant to a permit issued under this chapter.
- (10) SIXTH STREET DISTRICT means the area:
- (a) that begins at the intersection of IH-35 and Fifth Street (East);
 - (b) north along IH-35 to the intersection of Seventh Street (East);
 - (c) west along Seventh Street (East) to Congress Avenue;
 - (d) south along Congress Avenue to Fifth Street (East);
 - (e) east along Fifth Street (East) to IH-35, the place beginning.
- (11) SOUND EQUIPMENT means a microphone, public address system, turntable, or other similar digital or analog device.
- (12) SPRING FESTIVAL SEASON means the Friday of the second week of March through Sunday during the third week of March, unless the

City Manager designates an alternate ten-day period for a particular year.

(13) TEMPORARY CHANGE OF USE means a permit issued by the accountable official that authorizes a temporary increase in occupancy levels for a particular premises or structure.

(14) TEMPORARY EVENT means an event that lasts no more than four consecutive or non-consecutive days during a 30 day period and requires a temporary change of use, temporary use permit, or temporary closure of a right-of-way.

(15) TEMPORARY USE PERMIT means a permit issued by the Planning and Zoning Department under Chapter 25-2, Article 6 (*Temporary Uses*) to authorize a temporary activity not otherwise permitted in a base zoning district.

(16) WAREHOUSE DISTRICT means the area:

- (a) that begins at the intersection of Congress Avenue and Cesar Chavez Street;
- (b) north along Congress Avenue to Fifth Street (West);
- (c) west along Fifth Street (West) to Guadalupe Street;
- (d) south along Guadalupe Street to Cesar Chavez Street; and
- (e) east along Cesar Chavez Street to Congress Avenue, the place of beginning.

§ 4-20-2 PERMIT REQUIRED.

- (A) A person must obtain a permit to deliver, finish, place, or pour concrete between 7:00 p.m. and 6:00 a.m. in the Central Business District (CBD) base zoning district at property located within 600 feet of a residence, church, hospital, hotel, or motel.
- (B) A person must obtain a permit to operate sound equipment attached to or mounted on a vehicle.
- (C) A person must obtain a permit to operate sound equipment at a temporary event.
- (D) Except as provided in Subsection (F), a person must obtain a permit to operate an outdoor venue.

- (E) An outdoor venue permit is valid for two years from the date it is issued.
- (F) An outdoor music venue permit that it is not suspended or revoked and was issued between:
- (1) January 1, 2017 and January 31, 2017, satisfies the requirement in Subsection (D) until May 1, 2019; or
 - (2) February 1, 2017 and March 1, 2017, satisfies the requirement in Subsection (D) until June 1, 2019; or
 - (3) March 2, 2017 and March 31, 2017, satisfies the requirement in Subsection (D) until July 1, 2019; or
 - (4) April 1, 2017 and May 31, 2017, satisfies the requirement in Subsection (D) until August 1, 2019; or
 - (5) June 1, 2017 and July 31, 2017, satisfies the requirement in Subsection (D) until October 1, 2019; or
 - (6) August 1, 2017 and August 31, 2017, satisfies the requirement in Subsection (D) until November 1, 2019.
- (G) For purposes of this section, an outdoor music venue permit means a permit issued before the effective date of this section that allowed the use of sound equipment for outdoor music that involves the amplification of sound from instruments, vocal and instrument microphones, turntables, and digital or analog devices used as part of a performance requiring human operation from song to song.

§ 4-20-3 NON-TRANSFERABLE.

A permit issued under this chapter may not be transferred by the property owner or operator listed on the application and does not convey with a sale or transfer of the property.

§ 4-20-4 MEASURING SOUND LEVELS.

The decibel limits prescribed under this chapter must be measured by a decibel meter approved by the Music Office.

§ 4-20-5 FEES REQUIRED.

- (A) An applicant must pay an application fee set by separate ordinance.
- (B) Unless the accountable official requires the applicant to mail notice, an applicant must pay a notification fee set by separate ordinance.

- (C) An applicant must pay a sound impact plan review fee set by separate ordinance.

§ 4-20-6 ADMINISTRATIVE RULES.

The accountable official may adopt rules in accordance with Chapter 1-2 (*Administrative Rules*) to administer and implement this chapter.

§ 4-20-7 ADMINISTRATIVE APPEALS.

- (A) If the accountable official denies an application for an approval described in Section 4-20-2 (*Permit Required*) an applicant may appeal the decision to the City Manager.
- (B) An interested party may appeal a decision to grant an application for a permit issued pursuant to Article 3 (*Amplified Sound*) of this chapter.
- (C) An appeal must be submitted to the City Manager, in writing, within 10 days from the date the decision is issued and must describe the decision being appealed and the grounds for the appeal.
- (D) The City Manager must make a decision within 30 days from the date the appeal is submitted to the City Manager.
- (E) The City Manager may sustain, reverse, or modify the decision appealed. The City Manager's decision is final.

ARTICLE 2. SOUND ASSOCIATED WITH CONCRETE POURS AND VEHICLES.

§ 4-20-20 CONCRETE POURS.

- (A) For property located within 600 feet of a residence, church, hospital, hotel, or motel, the accountable official may issue a permit under Subsection (B) authorizing an applicant to deliver, place, or pour concrete during the non-peak hour period of 7:00 p.m. to 6:00 a.m. if:
- (1) the accountable official determines that the delivery, finishing, placement, or pouring of concrete during non-peak hours is in the interest of the public health, safety, and welfare, or is justified by urgent necessity; and
 - (2) the property is located:
 - (a) within the Downtown Density Bonus area identified in Section 25-2-586(B) (*Downtown Density Bonus Program*); and
 - (b) within one of the following zoning districts:

(i) the Central Business District (CBD) base zoning district;
or

(ii) the Public (P) zoning district.

(B) The accountable official may issue one of the following permit types for a project if the application meets the general standards in Subsection (A) and complies with the additional restrictions under this subsection, which must be listed as conditions on the permit.

(1) Type 1 Non-Peak Hour Permit:

(a) Maximum sound level: 83 decibels, unless further restricted by a sound management plan.

(b) Permitted days during the week: Everyday.

(c) Permitted hours: 7:00 p.m. and 12:00 a.m.

(2) Type 2 Non-Peak Hour Permit:

(a) Maximum sound level: 78 decibels, unless further restricted by a sound management plan.

(b) Permitted days of the week: Everyday.

(c) Permitted hours: Midnight to 6:00 a.m.

(3) Type 3 Non-Peak Hour Permit:

(a) Maximum sound level: Unlimited.

(b) Permitted days during the week: Everyday.

(c) Permitted hours: 7:00 p.m. to 6:00 a.m.

(d) The accountable official may only issue a Type 3 Non-Peak Hour permit if:

(i) a special circumstance exists that requires a continuous pour, such as a mat slab or similar foundation pour that would be inconsistent with a Type 1 or 2 permit; and

(ii) the permit application includes a letter from a professional engineer of record for the project confirming that late night pour must be continuous and cannot be reasonably divided into multiple shorter pours.

(4) Decibel restrictions for Type 1 and Type 2 permits shall be measured at a distance of 75 feet from the sound source, unless further restricted by a sound management plan.

(5) If a neighbor adjacent to a site with an active permit under this section alleges a violation of the applicable decibel limit, the accountable official shall deploy sound monitoring equipment to the site and document whether or not the applicable decibel restriction has been violated. The sound data provided by the sound monitoring equipment shall be available to the public in real time, if possible.

(C) A permit issued under this section must state the duration during which the authorized activity may occur, which may not exceed 72 hours. An applicant may not hold more than one permit under this section for a single project.

(D) A person must submit an application to deliver, finish, place, or pour concrete during non-peak hour periods under this section on a form approved by the accountable official that includes:

(1) the name, address, telephone number of the applicant;

(2) the address or a description of the location of the property where the work will be performed; and

(3) the type of permit required, which must be one of the categories listed in Subsection (B) of this section.

(E) To mitigate possible impacts and minimize disruptions to adjacent residential, commercial, and civic uses, the applicant is responsible for ensuring that all delivery, placement, or pouring of concrete permitted under this section complies with the requirements of this subsection.

(1) Notification of the exact date, time, and duration of non-peak hour activity authorized under Subsection (A), as well as 24-hour contact information for the individual with primary responsibility for the project, shall be:

(a) provided to city staff and to abutting property owners located next door or across the street;

(b) provided to representatives of property owners and residents within 600 feet; and

(c) clearly stated on a sign posted on the property at the construction entrance and visible from the street.

(2) As a condition to approval of a non-peak hour permit under Subsection (A) of this section, an applicant must comply with a sound and light management plan approved by the accountable official consistent with the requirements of this subsection.

(a) A sound and light management plan must identify:

(i) where concrete trucks will queue to ensure minimal disruption to adjacent residences, businesses, and civic uses;

(ii) where the concrete pump will be located during all phases of construction and provides for an alternate location in the event the accountable official determines that relocating the pump is necessary to minimize disruption to adjacent residential and civic uses;

(iii) the location, materials and manner of placement of proposed mitigation materials, such as sound baffling, on the property to contain noise from concrete pumps and concrete trucks during high revolutions per minute (RPM) cycles before construction begins; and

(iv) the name and cell phone number of the on-site supervisor, who must be on the property during the non-peak hour concrete pour.

(F) Concrete finishing is permitted from 7:00 p.m. to 6:00 a.m., provided that it does not include delivery, placement, or pouring.

(G) This subsection provides for the denial of non-peak concrete pour permits if the accountable official finds that a project has accrued violations of this section or a sound and light management plan required under this section:

(1) if three or more violations occur within a 30-day period, the accountable official shall not issue a new non-peak hour permit under this section for a period of 30 days from the date of the last violation and shall issue a 30-day suspension letter to the applicant;

(2) if six or more 30-day suspensions are issued within any 12-month period, the accountable official may not issue any additional non-peak hour permits for the project; and

(3) for purposes of Subsection (G)(2), the 12-month period is reset if less than six 30-day suspensions are within 12 months from the date of the first non-peak hour permit issued for the project.

(H) If an application for a building permit was submitted prior to December 1, 2014, the accountable official shall:

(1) permit delivery, placement, or pouring of concrete in connection with a construction of that building during the non-peak hour period of 7:00 p.m. to 6:00 a.m.; and

(2) require a sound and light management plan, as provided in Subsection (D)(2) of this section.

§ 4-20-21 SOUND EQUIPMENT ON VEHICLES.

(A) A person may not operate or allow another to operate sound equipment attached to or mounted to a vehicle without a permit.

(B) A person must submit an application to the accountable official on a form approved by the accountable official.

(C) A permit issued under this section is valid for a 24-hour period and may allow sound equipment to be operated between:

(1) 10:00 a.m. and 8:00 p.m. on Mondays through Saturdays; or

(2) 12:00 noon and 6:00 p.m. on Sunday.

ARTICLE 3. AMPLIFIED SOUND

§ 4-20-30 AMPLIFIED SOUND PERMITS.

In this chapter, an amplified sound permit includes a permit to operate an outdoor venue and a permit to operate sound equipment at a temporary event.

§ 4-20-31 RESTRICTIONS.

(A) The City will not issue an amplified sound permit for a premises located within 100 feet of a residential premises.

(B) Unless Subsection (C) or Subsection (D) applies, for a premises located more than 100 feet but less than 600 feet from a residential premises, the accountable official may issue an amplified sound permit to operate sound equipment between 10:00 a.m. and:

(1) 8:00 p.m. Sunday through Thursday; and

(2) 10:00 p.m. on Friday and Saturday.

(C) If, on the effective date of this chapter, the owner or operator of a premises described in Subsection (B) is subject to an agreement with an affected neighborhood organization to extend the hours sound equipment may be operated at the property, the owner, operator, or permittee may continue to operate consistent with the agreement until September 1, 2018.

(D) For a premises described in Subsection (B), the accountable official may issue an amplified sound permit to operate sound equipment between 10:00 a.m. and 10:00 p.m. Sunday through Thursday and 10:00 a.m. and 12:00 midnight on Friday, Saturday, and the day preceding a federally-recognized holiday. When considering whether to approve the operating hours described in this subsection, the accountable official must consider the following:

(1) prior agreements with owners and tenants of nearby premises;

(2) prior agreements with neighborhood organizations;

(3) compliance history; and

(4) factors associated with compatibility that are established by rule.

(E) Unless Subsection (F) or Subsection (G) applies, for a premises located more than 600 feet from a residential premises, the accountable official may issue an amplified sound permit to operate sound equipment between 10:00 a.m. and:

(1) 10:30 p.m. Sunday through Wednesday;

(2) 11:00 p.m. on Thursday; and

(3) 12:00 midnight on Friday, Saturday, and the day preceding a federally-recognized holiday.

(F) The accountable official may issue an amplified sound permit to operate sound equipment between 10:00 a.m. and 2:00 a.m. every day if the premises has an occupancy capacity of 600 or fewer people, is located more than 600 feet of a residential premises, and is located within the Warehouse District or Sixth Street District.

(G) For a premises located more than 600 feet from a residential premises, the accountable official may issue an amplified sound permit to operate sound equipment between 10:00 a.m. and 2:00 a.m. during Spring Festival Season.

- 1 (H) For purposes of this section, distance is measured along the property lines of
2 the street fronts and from front door to front door, and in direct line across
3 intersections. If a premises was the subject of an outdoor music venue permit
4 issued after August 31, 2016, and the permit is not suspended or revoked,
5 the distance measured at the time the permit was issued controls.
- 6 (I) For a premises located within a commercial recreation district, as defined in
7 Section 25-2-96 (*Commercial Recreation (CR) District Regulations*), the
8 accountable official may issue an amplified sound permit to operate sound
9 equipment that causes sound up to 70 decibels.
- 10 (J) For a premises associated with a restaurant (general), as defined in Section
11 25-2-808 (*Restaurants and Cocktail Lounges*), the accountable official may
12 issue an amplified sound permit to operate sound equipment that causes
13 sound up to 70 decibels.
- 14 (K) The City will not issue an amplified sound permit to operate sound
15 equipment that causes sound to exceed 85 decibels.
- 16 (L) The City will only allow a premises to be the subject of a permit to operate
17 sound equipment at a temporary event for up to 19 days per calendar year.
- 18 (M) A premises may be the subject of only one permit to operate sound
19 equipment at a temporary event during a 30-day period, which begins the
20 day after the permit associated with the premises expires.
- 21 (N) A permit to operate sound equipment at a temporary event may not exceed
22 four consecutive days or four non-consecutive days during a 30-day period.

23 **§ 4-20-31 APPLICATION REQUIREMENTS.**

- 24 (A) A person must submit an application to the accountable official on a form
25 approved by the accountable official.
- 26 (B) An applicant must provide the accountable official, at a minimum, the
27 following:
- 28 (1) the applicant's name, address, and telephone number;
- 29 (2) if the owner of the premises is not the same as the applicant, the
30 owner's name, address, and telephone number;
- 31 (3) the address of the premises where sound equipment will be used;
- 32 (4) the proposed hours to operate sound equipment;

- (5) the size and occupancy limit of the premises;
- (6) sound-mitigating design features; and
- (7) a signed statement that applicant reviewed a copy of this chapter and related administrative rules and the applicant will comply with all applicable requirements.

(C) An applicant for a permit to operate sound equipment during a temporary event must provide the information described in Subsection (B) and also the following:

- (1) the proposed dates to operate sound equipment;
- (2) the proposed location of stages; and
- (3) the size, location, and orientation of speakers.

§ 4-20-32 APPLICATION NOTICE REQUIREMENTS.

(A) This section applies to an application for an application for an outdoor venue and to an application to operate sound equipment at a temporary event with a proposed duration that exceeds 24 hours.

(B) An interested party is entitled to notice by mail of an application that is subject to this section.

(C) The accountable official may mail notice, or may require the applicant to mail notice, of the application to interested parties. If notice is mailed by the applicant, the accountable official may audit whether the applicant sent notice as required by this section.

(D) If the applicant failed to comply with this section, a permit issued under this chapter is considered issued in error and is subject to suspension or revocation.

(E) A notice described in Subsection (B) must include the following information:

- (1) the general nature of the application;
- (2) name of applicant;
- (3) address of premises included in the application;
- (4) contact information for the accountable official;
- (5) earliest date a decision on the application will be made;

- (6) process to submit comments about the application;
- (7) if the application is granted, a process to appeal the decision; and
- (8) if the application is to operate sound equipment at a temporary event, the duration of the temporary event, size of the premises, number of anticipated attendees, and whether the sale or consumption of alcohol will be allowed.

§ 4-20-33 APPLICATION APPROVAL.

- (A) The accountable official may take action on an application described in Section 4-20-32(A) no earlier than the 15th day from the date notice was mailed.
- (B) The accountable official shall approve an application to operate sound equipment at a temporary event if:
 - (1) the applicant submits an application that complies with Section 4-20-30 (*Application Requirements*);
 - (2) the applicant pays all required fees;
 - (3) the applicant obtains any required temporary use, temporary change of use, and temporary closure of a right-of-way approvals;
 - (4) the accountable official approves a sound impact plan related to the application;
 - (5) the applicant complies with applicable notice requirements; and
 - (6) the applicant obtains all other required approvals.
- (C) The accountable official shall approve an application for an outdoor venue permit if:
 - (1) the applicant submits an application that complies with Section 4-20-30 (*Application Requirements*);
 - (2) the applicant pays all required fees;
 - (3) the accountable official approves a sound impact plan related to the application; and
 - (4) the applicant complies with applicable notice requirements.
- (D) A decision under this section must:
 - (1) be in writing;

- (2) describe sound impact plan requirements;
- (3) include information related to appeals; and
- (4) be mailed to the applicant.

(E) For purposes of this section, if the applicant requests, a decision may be sent by electronic mail.

§ 4-20-34 OPERATIONAL REQUIREMENTS.

- (A) A person may not operate, or allow another to operate, sound equipment to cause sound that exceeds the decibel limit established by the accountable official in the applicable sound impact plan.
- (B) A permittee must operate, or require another to operate, sound equipment to comply with this chapter and any requirements included in the applicable sound impact plan.
- (C) When sound equipment is operated, the permittee must require a responsible person to be present at the premises.
- (D) A permittee must comply with the Good Neighbor Policy and all applicable laws, including City Code and state law.
- (E) A permittee must post signs designed, placed, and sized consistent with requirements set by the accountable official. The signs required by this subsection must include the following information:
 - (1) name and contact information for the permittee and responsible person;
 - (2) authorized decibel limits and operating hours for sound equipment; and
 - (3) date the permit was issued and date it expires.

§ 4-20-35 SOUND IMPACT PLAN.

- (A) A sound impact plan is required for an amplified sound permit issued under this article.
- (B) The elements of a sound impact plan include:
 - (1) sound-mitigating design features;
 - (2) prescribed decibel limits;
 - (3) operating hours for sound equipment;

- (4) use of decibel meters or sentinels on site;
- (5) contact information for the responsible party;
- (6) permit display location; and
- (7) any other elements required by the accountable official.

(C) As part of the sound impact plan, the accountable official may prescribe decibel limits and operating hours that are more restrictive than otherwise provided in this chapter.

(D) During the two-year permit period, the accountable official may modify a sound impact plan after the accountable official provides the permittee a notice of intent to modify the sound impact plan.

§ 4-20-36 GOOD NEIGHBOR POLICY.

(A) The purpose of this policy is to maintain the safety, quiet, and cleanliness of the area surrounding an outdoor venue or a premises with a permit to operate sound equipment during a special event.

(B) This policy must be adopted by rule in accordance with Chapter 1-2- (*Adoption of Rules*) and Section 4-20-7 (*Administrative Rules*).

§ 4-20-37 EFFECT OF COMPLIANCE WITH AN OUTDOOR VENUE.

A permittee who complies with this chapter and Chapter 9-2 (*Noise*) is presumed not to constitute a nuisance as it concerns noise, sound, and sound equipment.

ARTICLE 4. ENFORCEMENT

§ 4-20-40 OFFENSES AND PENALTY.

(A) A person commits an offense if the person violates any requirement in this chapter.

(B) A person commits an offense if the person conducts a concrete pour during non-peak hours without a permit required by this chapter.

(C) A person commits an offense if the person operate, or allows another to operate, sound equipment attached to or mounted on a vehicle without a permit required by this chapter.

(D) A person commits an offense if the person operates, or allows another to operate, an outdoor venue without a permit required by this chapter.

- (E) A person commits an offense if the person operates, or allows another to operate, sound equipment at a temporary event without a permit required by this chapter.
- (F) A culpable mental state is not required for the commission of an offense under this chapter and need not be proved.
- (G) Each occurrence of a violation of this chapter is a separate offense.
- (H) An offense under this chapter is punishable as set forth in Section 1-1-99 (*Offenses; General Penalty*).

§ 4-20-41 NOTICE OF INTENT TO SUSPEND OR REVOKE.

- (A) The accountable official may give notice to the permittee of the official's intent to suspend or revoke a permit issued under this chapter.
- (B) The notice may include:
 - (1) a proposed modification to the sound impact plan; or
 - (2) the time, date, and place for a mandatory meeting between the permittee and City personnel; and
 - (3) the proposed suspension or revocation date.

§ 4-20-42 SUSPENSION OF A PERMIT.

- (A) The accountable official may suspend a permit if the official determines that the permit was issued in error.
- (B) The accountable official may suspend a permit for a concrete pour as provided in Section 4-20-20(G) (*Concrete Pours*).
- (C) The accountable official may suspend a permit if the official determines that at least four documented violations of this chapter related to the premises have occurred within a 45-day period.
- (D) Except as otherwise provided, a suspension is effective for up to two weeks.
- (E) During a suspension, sound equipment may not be operated at the premises.
- (F) A permittee may appeal a suspension as provided in Section 4-20-7 (*Administrative Appeals*), except that an appeal must be submitted in writing within five days from the date the decision to suspend is issued.
- (G) An appeal does not stay a suspension.

§ 4-20-43 REVOCATION OF A PERMIT.

- 1 (A) During a suspension, the accountable official may revoke a permit without
2 prior notice if:
- 3 (1) the accountable official determines that the permittee violated Article
4 3 (*Amplified Sound*);
- 5 (2) the accountable official determines that the permittee violated the
6 suspension; or
- 7 (3) the permittee failed to attend a meeting described in Section 4-20-41
8 (*Notice of Intent to Suspend or Revoke*).
- 9 (B) For purposes of this section, determines means a documented violation of
10 Article 3 (*Amplified Sound*), or of the suspension.
- 11 (C) After giving the permittee the notice described in Section 4-20-41 (*Notice of*
12 *Intent to Suspend or Revoke*), the accountable official may revoke the permit
13 because:
- 14 (1) the accountable official suspended the permit more than one time
15 during a six-month period; or
- 16 (2) the reason the permit was issued in error is not, or cannot be,
17 corrected.
- 18 (D) If a permit is revoked, sound equipment may not be operated at the premises.
- 19 (E) A permittee may appeal a revocation as provided in Section 4-20-7
20 (*Administrative Appeals*), except that an appeal must be submitted in writing
21 within five days from the date the permit is revoked.
- 22 (F) An appeal does not stay a revocation.

23 **ARTICLE 5. DISCLOSURE REQUIREMENTS.**

24 **§ 4-20-50 APPLICABILITY.**

- 25 (A) For purposes of this article, a premises is a permitted outdoor venue if it is
26 the subject of an active outdoor venue permit or if the premises was the
27 subject of an outdoor venue permit within the preceding 12 months.
- 28 (B) A residential premises located within 600 feet of a permitted outdoor venue.
29 For purposes of this article, residential premises includes a hotel, motel, or
30 other similar transient lodging.
- 31 (C) A commercial premises that may be used as an outdoor venue and is located
32 less than 600 feet from a residential premises.

§ 4-20-51 DISCLOSURE REQUIRED.

- (A) A person who sells a residential premises subject to this article must provide a written notice to a person who intends to purchase the premises that a permitted outdoor venue is located within 600 feet.
- (B) A person who rents a residential premises subject to this article must provide written notice to an individual renting the premises for more than 30 consecutive days that a permitted outdoor venue is located within 600 feet.
- (C) A person who sells or rents a commercial premises subject to this article must provide written notice to a person who intends to purchase or rent the premises that a residential premises is located within 600 feet of the premises.
- (D) A notice required by this section must be provided to a person before the effective date of an executory contract that binds the purchaser to purchase the premises.
- (E) A notice required by this section must be provided to a person before the effective date of an agreement that binds the person to rent the premises.

PART 3. The City Council directs the City Manager to provide the Council with a report related to the implementation of this ordinance on or before September 1, 2019. The City Manager should include any recommendations related to a permit process for amplified sound within enclosed permanent structures.

PART 4. This ordinance takes effect on September 1, 2017.

PASSED AND APPROVED

_____, 2017 § _____
Steve Adler
Mayor

APPROVED: _____ **ATTEST:** _____
Anne L. Morgan Jannette S. Goodall
City Attorney City Clerk