

ORDINANCE NO.

AN ORDINANCE RELATING TO REQUIREMENTS FOR SOUND AMPLIFICATION AND TEMPORARY EVENTS; AMENDING CITY CODE SECTIONS 9-2-1, 9-2-34, AND 14-8-34; REPEALING AND REPLACING ARTICLES 2 AND 3 AND RENUMBERING ARTICLE 4 OF CITY CODE CHAPTER 9-2; ADDING A NEW CITY CODE SECTION 9-2-65; AND DECLARING AN EMERGENCY.

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

PART 1. City Code Section 9-2-1 (*Definitions*) is amended to delete the definition of “Director,” to add the following new definitions, and to renumber the remaining definitions alphabetically:

(3) **MUSIC OFFICE** means the division or working group of a city department designated by the city manager with advisory and administrative functions related to permitting of outdoor live music.

(6) **RESPONSIBLE PARTY** means a sound engineer, audio professional, or other person authorized to make decisions regarding the use of sound equipment permitted under this chapter.

(9) **TEMPORARY EVENT IMPACT PLAN** means a plan required in connection with approval of a temporary event permit under Section 9-2-52 (*Temporary Event Impact Plan*).

(10) **SPECIAL EVENTS OFFICE** means the division or working group of a city department designated by the city manager with planning, coordinating, and overseeing special events requiring city approval.

(11) **SPRING FESTIVAL SEASON** means Wednesday through Sunday during the third week of March, unless the city manager designates an alternate five-day period for a particular year.

(12) **TEMPORARY CHANGE OF USE PERMIT** means a permit issued by the building or fire code official to authorize a temporary increase in occupancy levels allowed by applicable technical codes for a property or structure.

(13) **TEMPORARY USE PERMIT** means a permit issued by the Planning and Development Review Department under Chapter 25-2, Article 6 (*Temporary Uses*) to authorize a temporary activity not otherwise allowed as a principal or accessory use in a base zoning district.

PART 2. Articles 2 and 3 of City Code Chapter 9-2 (*Noise and Amplified Sound*) are repealed and replaced with a new Article 2 to read:

ARTICLE 2. PERMITTING AND OPERATIONAL REQUIREMENTS.

Division 1. General Provisions.

§ 9-2-11 PERMIT REQUIRED.

A person must obtain a permit to:

(1) operate sound equipment audible to the public as prescribed by this article, Chapter 8-1, Article 4 (*Restrictions on Amplified Sound*), and Section 14-8-34 (*Permit Required for the Use of Sound Equipment*); or

(2) 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.

§ 9-2-12 APPLICATION REQUIREMENTS.

(A) A person seeking a permit to operate sound equipment must complete and file a written application for a permit with the accountable official on a form approved by the accountable official and pay the application fee established by ordinance.

(B) In addition to any other information required by this chapter, an application for a sound amplification permit must include:

- (1) the name, address, and telephone number of the applicant;
- (2) the address or a description of the location of the property where the sound equipment will be used;
- (3) the time during which the sound equipment will be used;
- (4) an application fee, if required by separate ordinance; and
- (5) a statement that the applicant has obtained a copy of this chapter and related administrative rules and agrees to comply with all applicable requirements.

§ 9-2-13 PERMIT ISSUANCE.

Except where otherwise provided in this chapter, the accountable official shall issue a permit to a person who submits an application that meets the requirements of this chapter and pays the applicable fee.

1 **§ 9-2-14 RESTRICTIONS ON PERMITS IMPACTING RESIDENTIAL**
2 **PROPERTIES.**

3 (A) The limitations in this section apply to all permits for the use sound equipment
4 authorized under this chapter.

5 (B) The accountable official may not issue a permit for use of sound equipment
6 within 100 feet of property zoned and used as residential, except as authorized under
7 Section 9-2-21 (*Permit for Concrete Installation During Non-Peak Hour Periods*),
8 Chapter 8-1, Article 4 (*Restrictions on Amplified Sound*), or Section 14-8-34 (*Permit*
9 *Required for the Use of Sound Equipment*).

10 (C) The accountable official may issue a permit for use of sound equipment, as
11 authorized by this chapter, for property that is:

12 (1) beyond 100 feet but within 600 feet of property that is zoned and used as
13 residential, between:

14 (a) 10:00 a.m. and 8:00 p.m. on Sunday through Thursday; or

15 (b) 10:00 a.m. and 10:00 p.m. on Friday or Saturday; and

16 (2) beyond 600 feet of property that is zoned and used as residential, between
17 10:00 a.m. and 2:00 a.m.

18 **§ 9-2-15 RESTRICTIONS ON MULTIPLE PERMITS FOR A SINGLE**
19 **PROPERTY.**

20 (A) Except as otherwise provided under Chapter 8-1, Article 4 (*Restrictions on*
21 *Amplified Sound*) or Section 9-2-21 (*Permit for Concrete Installation During Non-Peak*
22 *Hour Periods*), the accountable official may not issue more than one sound amplification
23 permit under this chapter for the same site or property within 30-days.

24 (B) In calculating the number of days under Subsection (A) of this section, the first
25 day is the day after expiration of the most recent sound amplification permit issued for
26 the property.

27 **§ 9-2-16 FEES.**

28 The city council may establish application and permit fees by separate ordinance.

29 **§ 9-2-17 ADMINISTRATIVE RULES.**

30 The director may adopt administrative rules to implement the requirements of this
31 chapter with Chapter 2-1 (*Administrative Rules*).

Division 2. Non-Music Sound Permits.

§ 9-2-21 PERMIT FOR CONCRETE INSTALLATION DURING NON-PEAK HOUR PERIODS.

(A) Subject to the limitations in subsections (B) and (C) of this section, the director may issue a permit authorizing an applicant to deliver, finish, place, or pour concrete during the non-peak hour period of 7:00 p.m. to 6:00 a.m. at property that is located within:

- (1) the Central Business District (CBD) base zoning district; and
- (2) 600 feet of a residence, church, hospital, hotel, or motel.

(B) The director may issue a permit under subsection (A) of this section only if the director determines that the delivery, finishing, placement, or pouring of concrete during non-peak hour periods is in the interest of public health, safety, or welfare or is justified by urgent necessity.

(C) A permit issued under this section must state the duration during which the authorized activity may occur, which may not exceed 72 hours.

(D) In addition to information required by Section 9-2-12 (*Application Requirements*) an application to deliver, finish, place, or pour concrete during non-peak hour periods under Section 9-2-22 (*Restrictions on Permit*) must include:

- (1) the name, address, and 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 amount of time, up to 72 hours, needed to complete the work and the reason why the work cannot be completed during normal business hours.

§ 9-2-22 PERMIT FOR SOUND EQUIPMENT ON VEHICLE.

(A) The accountable official may issue a permit under this section for the use of sound equipment attached to or mounted on a vehicle, provided that the permit is limited to:

- (1) 10:00 a.m. and 8:00 p.m. on Monday through Saturday; or
- (2) 12:00 noon and 6:00 p.m. on Sunday.

(B) A permit issued under this section is valid for a 24-hour period.

1 **§ 9-2-23 PERMIT FOR OTHER PROPERTY.**

2 A permit for the use of sound equipment not otherwise authorized by this division
3 may be issued for a period of up to 24-hours, subject to the restrictions in Division 1
4 (*General Provisions*), except that a permit for an outdoor live music permit may only be
5 issued in accordance with Division 3 (*Outdoor Music Permits*) of this article.

6 **§ 9-2-24 ADMINISTRATIVE APPEALS.**

7 (A) If the accountable official denies an application for a sound permit under this
8 division, an applicant may appeal the director's decision to the city manager under the
9 requirements of this section.

10 (B) An appeal must be filed with the city manager, in writing, no later than the 10th
11 day after the date the decision is issued and must describe the decision being appealed
12 and the specific grounds for the appeal.

13 (C) No later than the 30th day after receiving a request for an appeal, the city
14 manager shall schedule a hearing to consider the appeal.

15 (D) The city manager may sustain, reverse, or modify the action appealed. The city
16 manager's decision is final.

17 ***Division 3. Outdoor Music Permits.***

18 ***Subpart A. General Provisions***

19 **§ 9-2-30 DECIBEL LIMITS FOR OUTDOOR MUSIC.**

20 (A) Unless a more restrictive decibel limit is required by a temporary event impact
21 plan, a condition on an outdoor music venue permit, or by another provision of this code,
22 sound equipment for which a permit has been issued under Subpart B (*Live Music*
23 *Permits*) may be operated at the following decibel levels:

24 (1) Up to 85 decibels between 10:00 a.m. and:

25 (a) 10:30 p.m. on Sunday through Wednesday;

26 (b) 11:00 p.m. on Thursday; or

27 (c) 12:00 midnight on Friday or Saturday.

28 (2) Up to 85 decibels at an outdoor music venue with an occupancy capacity
29 of 600 or fewer people located in the Warehouse District or Sixth Street
30 District, between 10:00 a.m. and 2:00 a.m.

- 1 (3) Up to 85 decibels during the spring festival season, between 10 a.m. and
2 2 a.m.

3 (B) In addition to the requirements of Subsection (A) of this section, use of sound
4 equipment at an outdoor music venue is:

- 5 (1) limited to 70 decibels if the venue is associated with a restaurant
6 (general) use, as prescribed under Section 25-2-808 (*Restaurants and*
7 *Cocktail Lounges*), and the hours of operation prescribed under
8 Subsection (A) of this section; and

- 9 (2) subject to the decibel limits prescribed under Section 25-2-583
10 (*Commercial Recreation (CR) District Regulations*), if located in a
11 commercial recreation district.

12 (C) The decibel limits prescribed under this section must be measured:

- 13 (1) with a decibel meter approved by the music office; and
14 (2) from the location of the sound equipment on the property or site where
15 the permit is issued.

16 **§ 9-2-31 ADDITIONAL APPLICATION REQUIREMENTS.**

17 (A) In addition to the requirements in Section 9-2-12 (*Application Requirements*),
18 an application for a permit requiring a temporary event impact plan must address each of
19 the elements required by Section 9-2-52 (*Temporary Event Impact Plan*), including
20 conditions or restrictions proposed by the applicant beyond those required under this
21 chapter.

22 (B) The accountable official may require additional information, including a
23 certified list of all property owners entitled to notice under Section 9-2-54 (*Notice of*
24 *Application*) if ownership records are available through an automated database
25 maintained by the county tax appraisal district.

26 (C) Within 14 days after notice is provided under Section 9-2-54 (*Notice of*
27 *Application*), an applicant for an outdoor music permit may voluntarily revise the
28 application to request a permit of shorter duration. A revision under this section does not
29 require additional notice.

30 ***Subpart B. Live Music Permits.***

31 **§ 9-2-35 APPLICABILITY.**

32 A live music permit is required under this subpart to use sound equipment for outdoor
33 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.

§ 9-2-36 TYPES OF LIVE MUSIC PERMITS.

<i>Permit Type</i>	<i>Duration, Hours, and Decibel Levels</i>	<i>Temporary Event Impact Plan</i>	<i>Notice & Appeal</i>
Section 9-2-37: 24-Hour Live Music	1-day permit, with hours of operation and decibel levels per Sec. 9-2-30, unless modified by accountable official.	Required per Sec. 9-2-52.	—
Section 9-2-38: Multi-Day Special Event	4-day permit, with hours of operation and decibel levels per Sec. 9-2-30 unless modified by the accountable official.	Required per Sec. 9-2-52.	Notice per Sec. 9-2-54. Appeals per Sec. 9-2-56.
Section 9-2-41: Outdoor Music Venue	1-year permit, with hours of operation per Sec. 9-2-30 unless modified by the accountable official.	—	Notice per Sec. 9-2-54. Appeals per Sec. 9-2-56.

§ 9-2-37 24-HOUR LIVE MUSIC PERMIT.

(A) The accountable official may issue a 24-hour permit authorizing the use of sound equipment for outdoor music, subject to the requirements of Divisions 1 (*General Provisions*) and 3 (*Outdoor Music Permits*) of this article.

(B) A permit under this section requires a temporary event impact plan under Section 9-2-51 (*Temporary Event Impact Plan*).

§ 9-2-38 MULTI-DAY SPECIAL EVENTS PERMIT.

(A) The accountable official may issue a multi-day special event permit authorizing the use of sound equipment subject to the requirements of this section and Divisions 1 (*General Provisions*) and 3 (*Outdoor Music Permits*) of this article.

(B) A permit issued under this section may authorize the use of sound equipment at a site or property for no more than four consecutive or non-consecutive days during a 30-day period.

1 (C) No more than one permit may be issued under this section for the same site or
2 property within a 45-day period.

3 (D) No more than four permits per year may be issued under this section for the
4 same site or property.

5 (E) A permit may not be issued for a site or property under this section unless any
6 required temporary use or temporary change of use permit has been obtained.

7 (F) A permit may not be issued under this section for a site or property that is used
8 as a parking lot unless the lot is leased by an adjacent commercial structure.

9 (G) A permit may not be issued under this section without the approval of a
10 temporary event impact plan under Section 9-2-52 (*Temporary Event Impact Plan*).

11 (H) Notice of an application under this section shall be provided in accordance with
12 Section 9-2-54 (*Notice of Application*).

13 (I) A decision by the accountable official to approve or deny a permit under this
14 section may be appealed under Section 9-2-56 (*Administrative Appeal*).

15 **§ 9-2-39 OUTDOOR MUSIC VENUE PERMIT.**

16 (A) The accountable official may issue a 1-year permit authorizing the use of sound
17 equipment for outdoor music on an ongoing basis, subject to the requirements of this
18 section and Divisions 1 (*General Provisions*) and 3 (*Outdoor Music Permits*) of this
19 article.

20 (B) The accountable official shall provide notice of an application under this section
21 in accordance with Section 9-2-54 (*Notice of Application*).

22 (C) A decision by the accountable official to approve or deny a permit under this
23 section may be appealed under Section 9-2-56 (*Administrative Appeal*).

24 ***Subpart D. Review, Notification, and Appeal.***

25 **§ 9-2-50 MUSIC OFFICE REVIEW.**

26 (A) Within three (3) days of receiving an application for any of the following
27 permits, the accountable official shall forward the application to the music office for
28 review under this section:

- 29 (1) Section 9-2-37 (*24-Hour Live Music Permit*);
30 (2) Section 9-2-38 (*Multi-Day Special Event Permit*); and
31 (3) Section 9-2-39 (*Outdoor Music Venue Permit*).

(B) After receiving an application from the accountable official under Subsection (A) of this section, the music office shall conduct an appropriate level investigation based on the type of permit sought and its potential impacts to the surrounding community. The investigation may include on-site inspections and sound measurements, discussions with nearby residents and business owners, and any additional research relevant to assessing potential impacts.

(C) After conducting an investigation under Subsection (B) of this section, the music office shall prepare a report recommending approval or denial of the application and any appropriate conditions and restrictions. If necessary to protect public health and safety, the music office may recommend limits on attendance and capacity and more restrictive decibel limits and hours of operation than required under Section 9-2-30 (*Decibel Limits for Outdoor Music*).

(D) The music office shall base its report under Subsection (C) of this section on the following factors:

- (1) suitability of the site for outdoor music based on topography and proximity to existing and future residential, commercial, and civic uses;
- (2) size and capacity of the site or venue covered by the permit;
- (3) sound-mitigating design features proposed in the application, including building design, stage construction and orientation, buffering, size, location, and orientation of speakers;
- (4) restrictions on decibel levels or hours of operation proposed by the applicant, if any, beyond those required by this chapter for the permit sought;
- (5) ownership and operation of decibel meters;
- (6) availability of a responsible party, as defined in Section 9-2-1 (*Definitions*), to attend and monitor outdoor music events;
- (7) potential for additional sound mitigation; and
- (8) history of noise complaints and violations at the site, as verified by the chief of police or the accountable official.

§ 9-2-51 ADDITIONAL REVIEW FOR TEMPORARY EVENTS.

(A) For an application under Section 9-2-37 (*24-Hour Live Music Permit*) or Section 9-2-38 (*Multi-Day Special Event Permit*), the special events office shall work directly with the music office in the review and recommendation required under Section 9-2-50 (*Music Office Review*).

1 (B) In addition to the factors specified under Section 9-2-50 (*Music Office Review*),
2 the music office and the special events office shall consider the following factors in
3 reviewing an application under this section:

- 4 (1) anticipated attendance, based on event capacity and promotion;
- 5 (2) likely impacts on traffic and public right-of-way;
- 6 (3) availability of parking and loading for motor vehicles and parking for
7 bicycles;
- 8 (4) adequacy of planning for security and emergency services;
- 9 (5) level of event insurance coverage;
- 10 (6) availability of food and alcohol;
- 11 (7) cumulative impacts of events in the vicinity of the proposed event, for
12 which permits have been issued or applications submitted; and
- 13 (8) public health and safety.

14 **§ 9-2-52 TEMPORARY EVENT IMPACT PLAN.**

15 (A) A temporary event impact plan approved by the music office and the special
16 events office is required under this section for applications under Section 9-2-37 (24-
17 *Hour Live Music Permit*) or Section 9-2-38 (*Multi-Day Special Event Permit*).

18 (B) A temporary event impact plan must be based on the findings and
19 recommendations under Section 9-2-50 (*Music Office Review*) and Section 9-2-51
20 (*Additional Review for Temporary Events*) and must include the following elements:

- 21 (1) Appropriate restrictions for:
 - 22 (a) stage construction and orientation;
 - 23 (b) size, location, and orientation of speakers;
 - 24 (c) appropriate sound buffering; and
 - 25 (e) on-site decibel meters.
- 26 (2) If necessary to protect public health and safety, limits on attendance and
27 capacity and more restrictive decibel limits and hours of operation than
28 required under Section 9-2-30 (*Decibel Limits for Outdoor Music*).
- 29 (3) A statement of all code requirements applicable to the permit under
30 Division 1 (*General Provisions*) and Division 3 (*Outdoor Music Permits*)
31 of this chapter.

1 (4) Identification and contact information of one or more responsible parties
2 to be present at events requiring the use of sound equipment.

3 (C) If necessary to protect public health and safety, a temporary event impact plan
4 may include limits on attendance and capacity and more restrictive decibel limits and
5 hours of operation than required under Section 9-2-30 (*Decibel Limits for Outdoor*
6 *Music*).

7 (D) Unless the applicant agrees to additional time or the music office recommends
8 denial of the application, the music office shall provide a recommended temporary event
9 impact plan to the accountable official within thirty (30) days after receiving the
10 application under Section 9-2-50 (*Music Office Review*).

11 **§ 9-2-53 DECISION ON APPLICATION.**

12 (A) The accountable official shall approve an application under Section 9-2-37 (24-
13 *Hour Live Music Permit*), Section 9-2-38 (*Multi-Day Special Event Permit*), or Section 9-
14 2-39 (*Outdoor Music Venue Permit*) if:

- 15 (1) the music office and the special events office have recommended a
16 temporary event impact plan under Section 9-2-52 (*Temporary Event*
17 *Impact Plan*), if applicable; and
- 18 (2) the accountable official finds that the conditions included in the
19 temporary event impact plan or other recommendation of the music
20 office are sufficient to:
- 21 (i) mitigate adverse impacts of the proposed venue on adjacent
22 residential, commercial, and civic uses; and
- 23 (ii) protect the health and safety of residents living in areas adjacent to
24 the proposed event or venue.

25 (B) If the accountable official finds that an application does not meet the
26 requirements in Subsection (A) of this section, the accountable official shall:

- 27 (1) request that the music office reconsider its recommendation to include
28 additional restrictions;
- 29 (2) approve the application subject to additional conditions and restrictions
30 that the accountable official determines are sufficient to meet the
31 requirements in Subsection (B) of this section; or
- 32 (3) deny the application.

1 (C) The accountable official may not deny an initial permit for an outdoor music
2 venue located within the footprint of a restaurant (general) use under Section 25-2-808
3 (*Restaurants and Cocktail Lounges*), but the accountable official may:

- 4 (a) impose conditions on the permit, as provided in Subsection (B)(2) of this
5 section; and
- 6 (b) deny an application to renew the permit under Section 9-2-32 (*Denial of*
7 *Permit for Repeated Offenses*) based on repeated violation of applicable
8 decibel limits.

9 (D) A decision under this section must:

- 10 (a) be in writing;
- 11 (b) describe conditions of approval, including requirements of the temporary
12 event impact plan; or
- 13 (c) be mailed to the applicant and any interested party within three days after
14 the decision is issued, per the requirements of Section 9-2-54 (*Notice of*
15 *Application*).

16 (E) The accountable official may not issue a decision under this section earlier than
17 the 14th day after the date that notice of the application is provided under Section 9-2-54
18 (*Notice of Application*).

19 **§ 9-2-54 NOTICE OF APPLICATION.**

20 (A) Not later than the 14th day after receiving an application under Section 9-2-38
21 (*Multi-Day Special Event Permit*) or Section 9-2-39 (*Outdoor Music Venue Permit*), the
22 accountable official shall provide notice of the application under this section.

23 (B) Except as provided in Subsection (C) of this section, the accountable official
24 shall mail notice to:

- 25 (a) the applicant;
- 26 (b) notice owner of a single-family use located within 600 feet of the site or
27 property included in the application;
- 28 (c) notice owner of a multi-family use located adjacent to the site or property
29 included in the application; and
- 30 (d) registered neighborhood organizations whose declared boundaries are
31 within 600 feet of the site or property included in the application.

32 (C) If the application is for renewal of an existing permit under Section 9-2-39
33 (*Outdoor Music Venue Permit*), the accountable official shall mail notice to:

- (1) the applicant;
- (2) notice owner of a single-family use located within 600 feet of the property; and
- (3) registered neighborhood organizations whose declared boundaries are within 600 feet of the site or property included in the application.

(D) Notice required under this section must:

- (1) describe the general nature of the application;
- (2) identify the applicant and the location of the site or property included in the application;
- (3) generally describe the venue and duration of proposed events;
- (4) provide contact information for the accountable official and the music office;
- (5) state the earliest date that a decision on the application may be made; and
- (6) describe the requirements for becoming an interested party and for appealing a decision on the application.

(E) Notice required under this section is effective on the date a letter is deposited in a depository of the U.S. Post Office, postage paid, and addressed to:

- (1) an applicant, by mailing notice to the property owner or agent at the address shown on the application or on a written change of address form filed with the responsible director or building official;
- (2) a notice owner of real property, by mailing notice to the owner shown on the records of the county tax appraisal district;
- (3) a record owner of real property, by mailing notice to the owner at the street address of the property or, if the property does not have a street address, to the return address shown on the deed; and
- (4) a neighborhood or environmental organization, by mailing notice to the agent or officer of the organization at the mailing address specified in the City's community registry.

(F) Notice by hand delivery may be substituted for notice by mail if the addressee provides a receipt of delivery.

(G) The accountable official shall forward notice provided under this section to appropriate City staff, including but not limited to the Austin Police Department, Special

1 Events Unit; Transportation Department, Right of Way Management Division; and
2 Austin Fire Department, Fire Marshall.

3 **§ 9-2-55 INTERESTED PARTIES.**

4 (A) Except as provided in subsection (B), a person is an interested party for an
5 application requiring notice under Section 9-2-54 (*Notice of Application*) if the person:

- 6 (1) is the applicant or the record owner of property for which the permit is
7 sought; or
- 8 (2) communicates an interest in the application and is:
- 9 (a) an individual entitled to notice under Section 9-2-54 (*Notice of*
10 *Application*); or
- 11 (b) a representative of a neighborhood organization entitled to notice
12 under Section 9-2-54 (*Notice of Application*).

13 (B) A person communicates an interest in a proposed outdoor music venue for
14 purposes of Subsection (A)(2) of this section by communicating his or her concerns, in
15 writing or by phone, to the accountable official. The communication must:

- 16 (1) generally identify the issues of concern;
- 17 (2) include the person's name, telephone phone number, and mailing address;
- 18 (3) be delivered before the earliest date on which action on the application
19 may occur under Subsection 9-2-53(G) (*Decision on Application*); and
- 20 (4) if the communication is by telephone, be confirmed in writing not later
21 than seven days after the earliest date that a decision on the application
22 can be made under Subsection 9-2-53(G) (*Decision on Application*).

23 **§ 9-2-56 ADMINISTRATIVE APPEAL.**

24 (A) Except as provided in Subsection (E) of this section, an interested party may
25 appeal a decision by the accountable official on an application for a permit under Section
26 9-2-38 (*Multi-Day Special Event Permit*) or Section 9-2-39 (*Outdoor Music Venue*
27 *Permit*).

28 (B) An appeal under this section must be filed with the accountable official, in
29 writing, no later than the 14th day after the date the decision is issued and must describe
30 the decision being appealed and the specific grounds for the appeal.

1 (C) Unless otherwise agreed to by the parties, a public hearing on an appeal shall be
2 held at the earliest council meeting for which notice of the hearing can be timely
3 provided.

4 (D) At any time prior to an appeal hearing, the accountable official may revise a
5 permit to include conditions agreed to by the parties that are within the scope of the
6 accountable official's authority under this chapter.

7 (E) In deciding an appeal, the city council may uphold, reverse, or modify a
8 decision of the accountable official, including the requirements and conditions of a multi-
9 day special event permit.

10 (F) A neighborhood organization may not appeal a decision to approve a permit for
11 property located within the following boundaries:

- 12 (1) Eastern boundary: I-35;
- 13 (2) Southern boundary: the northern shore of Lady Bird Lake;
- 14 (3) Western boundary: north along the eastern shore of Shoal Creek, north
15 along West Avenue to 7th Street, east along 7th Street to Lavaca
16 Boulevard, north along Lavaca Boulevard to 11th Street; and
- 17 (4) Northern boundary: 11th Street.

18 **PART 3.** Article 4 (*Penalties and Enforcement*) of City Code Chapter 9-2 is renumbered
19 as "Article 3."

20 **PART 4.** City Code Section 9-2-31 (*Offenses*) is renumbered as Section 9-2-61 and the
21 remaining sections of Chapter 9-2 (*Noise and Amplified Sound*) are renumbered
22 accordingly.

23 **PART 5.** City Code Section 9-2-34 (*Identification Requirements for Outdoor Music*
24 *Venues*) is amended to read:

25 **§ 9-2-64 [~~9-2-34~~] IDENTIFICATION REQUIREMENTS FOR LIVE MUSIC**
26 **PERMITS [~~OUTDOOR MUSIC VENUES~~].**

27 (A) The owner or operator of a site or property for which a permit has been issued
28 [~~an outdoor music venue permitted~~] under Section 9-2-38 (*Multi-Day Special Event*
29 *Permit*) or Section [~~9-2-12~~] 9-2-39 (*Permit for an Outdoor Music Venue*) shall
30 prominently display an identification sign as required by the accountable official
31 [~~director~~] under Subsection (B) of this section.

1 (B) The accountable official [~~director~~] shall adopt requirements, in accordance with
2 Chapter 1-2 (*Adoption of Rules*), governing the design, placement, and size of
3 identification signs to be posted at all outdoor music venues. The signs shall specify the
4 following:

- 5 (1) the name and address of the site or property and the type of live music
6 permit issued [~~outdoor music venue~~];
- 7 (2) the name and address of the owner or operator of the site or property
8 [~~outdoor music venue~~];
- 9 (3) the decibel limits for operation of sound equipment at the site or property
10 [~~outdoor music venue~~];
- 11 (4) the hours during which sound equipment may be used at the site or
12 property [~~outdoor music venue~~]; and
- 13 (5) the date on which the permit for the site or property [~~outdoor music~~
14 ~~venue~~] expires.

15 **PART 6.** City Code Chapter 9-2 (*Noise and Amplified Sound*) is amended to add a new
16 Section 9-2-65 (*Revocation of Live Music Permit*) to read:

17 **§ 9-2-65 REVOCATION OF LIVE MUSIC PERMIT.**

18 (A) The accountable official may revoke a permit issued under Article 2, Division 3
19 (*Outdoor Music Permits*) of this chapter if

- 20 (1) the permit was issued in error; or
- 21 (2) the permit holder has not complied with the requirements of this chapter,
22 including conditions imposed on a permit for an outdoor music venue
23 under Section 9-2-39 (*Outdoor Music Venue Permit*) or a multi-day
24 special event permit under Section 9-2-52 (*Multi-Day Special Event*
25 *Permit*).

26 (B) The accountable official shall provide the applicant written notice, and an
27 opportunity to correct the violations, at least seven (7) days prior to revoking a permit
28 under Subsection (A) of this section. The notice provided under this subsection must
29 specifically describe the violation(s) at issue.

30 (C) The accountable official shall give notice by certified mail, return receipt
31 requested, of a revocation by the official under this division.

32 (D) The appellant may appeal the accountable official's decision to the city council
33 by giving written notice to the accountable official not later than the third working day

1 after receiving notice of the decision. The notice of appeal must identify the decision
2 being appealed and explain the general grounds for the appeal.

3 (E) The city council shall hear the appeal at the next regularly scheduled meeting
4 following receipt of the notice of appeal. An appeal is automatically granted if the
5 council does not hear the appeal before the 21st day following receipt of the notice of
6 appeal unless the applicant agrees to have the hearing scheduled for a later date.

7 (F) A revocation order remains in effect during the pendency of an appeal under this
8 section.

9 **PART 7.** City Code Section 14-8-34 (*Permit Required for the Use of Sound Equipment*)
10 is amended to read:

11 **§ 14-8-34 PERMIT REQUIRED FOR THE USE OF SOUND EQUIPMENT.**

12 An applicant may not use sound equipment at a right-of-way event unless the
13 applicant obtains a sound amplification permit issued [~~by the director~~] under Chapter 9-2,
14 Article 2, Division 3 (*Live Music Permits*). An applicant may not operate sound
15 equipment at a right-of-way event that produces sound greater than:

- 16 (1) 85 decibels between 10:00 a.m. and 10:00 p.m. and 80 decibels between 10:00
17 p.m. and 2:00 a.m., as measured from the closer of:
- 18 (a) a point 100 feet in front of the sound equipment; or
 - 19 (b) at the edge of the nearest residence from the sound equipment; or
- 20 (2) the decibel levels and time periods established by the director for a particular
21 right-of-way event.

22 **PART 8.** All existing outdoor music venue permits that would otherwise expire between
23 January 1, 2011, and March 20, 2011, are extended until April 1, 2011.

24 **PART 9.** Notwithstanding the provisions of Section 9-2-56 (*Administrative Appeal*),
25 permits issued under Section 9-2-38 (*Multi-Day Special Event Permit*) are not subject to
26 appeal until April 1, 2011.

27 **PART 10.** The city council directs the city manager to review the implementation of
28 the multi-day special event requirements adopted by this ordinance and to provide a
29 report by May 2, 2011, regarding effectiveness of these requirements

30 **PART 11.** The city council finds that the City's existing noise regulations do not provide
31 adequate flexibility to address the unique challenges posed by multi-day music events.

1 Given the prevalence of such events during the upcoming spring festival season, the
2 council finds that the need to improve the City's noise regulations constitutes an
3 emergency. Accordingly, this ordinance takes effect immediately upon its passage for the
4 preservation of public peace, health, and safety.

5 **PASSED AND APPROVED**

6
7 §
8 §
9 _____, 2011 § _____
10 Lee Leffingwell
11 Mayor
12
13

14 **APPROVED:** _____
15 Karen Kennard
16 Acting City Attorney

ATTEST: _____
Shirley A. Gentry
City Clerk