

ORDINANCE NO.

AN ORDINANCE AMENDING CITY CODE CHAPTER 9-2 RELATING TO PERMITTING, OPERATIONAL, AND ENFORCEMENT REQUIREMENTS FOR AMPLIFIED SOUND; AND CREATING A PENALTY.

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

**PART 1.** City Code Section 9-2-1 (*Definitions*) is amended to amend the definition of “Decibel” and to add new definitions of “Good Neighbor Policy” and “Sound Impact Plan” to read as follows, and to renumber the remaining definitions accordingly:

(2) DECIBEL means sound pressure level as measured by a sound level meter using the “A” weighting network and either the slow or fast meter response as specified by the American National Standards Institute.

(3) GOOD NEIGHBOR POLICY means a set of good business practices required as a condition of an Outdoor Music Venue permit issued under this chapter.

(10) SOUND IMPACT PLAN means a plan required in connection with approval of an Outdoor Music Venue permit under Section 9-2-39 (Outdoor Music Venue Permit).

**PART 2.** City Code Chapter 9-2 (*Noise and Amplified Sound*) is amended to add new Sections 9-2-32, 9-2-40, 9-2-41, and 9-2-57 to read as follows:

**§9-2-32 NOTICE SIGN REQUIREMENTS FOR LIVE MUSIC PERMITS**

(A) The owner or operator of a site or property for which a permit has been issued under Section 9-2-38 (*Multi-Day Special Event Permit*) or Section 9-2-39 (*Permit for an Outdoor Music Venue*) shall prominently post signs that include the information required under Subsection (B) of this Section.

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

(1) the name and address of the site or property and the type of live music permit issued;

(2) the name and address of the owner or operator of the site or property;

(3) the decibel limits for operation of sound equipment at the site or property;

(4) the hours during which sound equipment may be used at the site or property; and

(5) the date on which the permit for the site or property expires.

#### **§ 9-2-40 GOOD NEIGHBOR POLICY**

(A) The purpose of the Good Neighbor Policy is to maintain the safety, quiet, and cleanliness of the area an Outdoor Music Venue.

(B) A permit holder, as a condition of the Outdoor Music Venue permit, must comply with the requirements set forth in the Good Neighbor Policy.

(C) The Good Neighbor Policy shall be adopted by rule in accordance with Chapter 1-2 (*Adoption of Rules*).

#### **§ 9-2-41 SOUND IMPACT PLAN**

(A) A sound impact plan is required for a permit issued under Section 9-2-39 (*Permit for an Outdoor Music Venue*).

(B) The elements of a sound impact plan are:

(1) sound-mitigating design features;

(2) prescribed decibel levels and hours of operating;

(3) availability and use of decibel meters on site;

(4) contact information and hours of availability for an individual responsible for sound;

(5) location for display of permit; and

(6) any other elements required by the accountable official.

(C) After a permit has been issued, the accountable official may modify a sound impact plan. A sound impact plan may not be modified until a notice of intent to modify the sound impact plan has been provided to the permit holder.

#### **§ 9-2-57 DENIAL OF PERMIT FOR REPEAT OFFENSES**

(A) The accountable official may refuse to issue a permit to an applicant or to renew an existing permit if:

(1) The permit holder is convicted of more than two violations of a permit issued under this chapter; or

(2) The property where the sound equipment will be used is the location of more than two violations of a permit issued under this chapter.

(B) The accountable official may not issue a permit to an applicant if the accountable official or, after an appeal, the city council, revoked a prior permit issued under this chapter in the preceding six months.

**PART 3.** City Code Section 9-2-36 (*Types of Live Music Permits*) is amended to read:

<i>Permit Type</i>	<i>Duration, Hours, and Decibel Levels</i>	<i>[Temporary] Event Impact Plan</i>	<i>Notice &amp; Appeal</i>
<b>Section 9-2-37:</b> 24-Hour Live Music	1-day permit, with hours of operation and decibel levels per Sec.9-2-30, unless modified by accountable official.	<u>Temporary Event Impact Plan</u> r[R]equired per Sec. 9-2-52.	
<b>Section 9-2-38:</b> 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.	<u>Temporary Event Impact Plan</u> r[R]equired per Sec. 9-2-52.	Notice per Sec. 9-2-54.  Appeals per Sec. 9-2-56.
<b>Section 9-2-39:</b> Outdoor Music Venue	1-year permit, without hours of operation per Sec. 9-2-30 unless modified by the accountable official.	<u>Sound Impact Plan required per Sec. 9-2-41.</u>	Notice per Sec. 9-2-54.  Appeals per Sec. 9-2-56.

**PART 4.** City Code Chapter 9-2 (*Noise and Amplified Sound*) is amended to repeal and replace Article 3 (*Penalties and Enforcement*) with a new Article 3 to read as follows:

### ***ARTICLE 3. PENALTIES AND ENFORCEMENT.***

#### **§ 9-2-61 OFFENSES**

(A) A person commits an offense if the person makes noise or uses sound equipment in violation of a provision of this chapter.

(B) An offense under this chapter is a Class C misdemeanor, punishable by a fine up to \$500.

(C) A culpable mental state is not required for the commission of an offense under this chapter.

(D) Each occurrence of a violation of this chapter is a separate offense.

(E) A violation of this chapter is a nuisance. The prosecution of an offense under this chapter does not limit the City's right to abate the nuisance, including the use of injunctive relief.

#### **§ 9-2-62 ENFORCEMENT POLICES**

The police chief may adopt enforcement policies to measure sound levels under this chapter in accordance with Chapter 1-2 (*Adoption of Rules*).

#### **§ 9-2-63 SUSPENSION OF A PERMIT**

(A) The accountable official may suspend a permit if the official determines that:

(1) the permit was issued in error; or

(2) at least four documented violations of the Temporary Event Impact Plan or Sound Impact Plan have occurred within a 45-day period.

(B) A suspension is effective for up to two weeks.

#### **§ 9-2-64 REVOCATION OF A PERMIT**

(A) The accountable official may immediately revoke a permit issued pursuant to Section 9-2-38 (*Multi-Day Special Event Permit*) or Section 9-2-39 (*Permit for an Outdoor Music Venue*) that has been suspended if the accountable official determines that the Temporary Event Impact Plan or Sound Impact Plan have been violated

(1) during the suspension; or

(2) within six months after the end of the suspension.

(B) A permit holder may appeal a revocation not later than 10 calendar days after the date of the revocation.

(C) A notice of appeal must be on a form prescribed by the accountable official and must include:

(1) the name, address, and telephone number of the appellant;

(2) the name, address, and telephone number of the venue; and

(3) the reasons the appellant believes the decision does not comply with the requirements of this chapter.

(D) The city council shall hear the appeal at the next available scheduled meeting following seven days after the receipt of the notice of appeal.

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

## § 9-2-65 NOTICE OF INTENT TO SUSPEND A PERMIT

(A) The accountable official may give notice to the permit holder of the official's intent to suspend a permit issued under Section 9-2-38 (*Multi-Day Special Event Permit*) or Section 9-2-39 (*Permit for an Outdoor Music Venue*).

(B) The notice may include one or more of the following:

(1) proposed modifications to the sound impact plan; or

(2) the time, date, and place for a mandatory meeting between the permit holder and City personnel.

**PART 5.** This ordinance takes effect on \_\_\_\_\_, 2013.

**PASSED AND APPROVED**

§§§

\_\_\_\_\_, 2013

Lee Leffingwell  
Mayor

**APPROVED:** \_\_\_\_\_

Karen M. Kennard  
City Attorney

**ATTEST:** \_\_\_\_\_

Jannette S. Goodall  
City Clerk