



Date: August 10, 2023
To: City Council Oversight Committee
From: Jeanne Snider, Assistant City Attorney
Subject: Noise Ordinance, Sec. 16-201, et seq.

BACKGROUND

Since 2016, there have been ongoing discussions regarding Norman's Noise Ordinance. Noise ordinances are approved by local governments to regulate noise levels in residential, commercial and industrial areas. The ordinances typically set specific noise limits for different times of day and different types of areas. Violations of noise ordinances can result in fines or other penalties.

The effectiveness of a noise ordinance depends on several factors, including specific details of the ordinance, the level of enforcement and the local community's willingness to comply with the regulations. Outdoor noise, and specifically outdoor live entertainment can cause conflict between multiple land uses or competing businesses. The Noise Ordinance sets limitations of sound levels/decibels in each use district.

Below is a timeline that provides a history of staff reports, memorandums and meetings regarding this issue.

08/11/16	Staff Report. Planning Commission. Puebla Tacos y Tequileria requesting Special Use for Live Entertainment on back patio. Staff supported occasional outdoor live entertainment.
09/27/16	City Council Minutes. Consideration for Special Use for a live entertainment venue for Puebla Tacos y Tequileria. Application was tabled and discussion of outdoor live entertainment was sent to CPT Committee.
10/21/16	Memorandum from Planning and Community Development Director to CPT Committee. Thorough discussion regarding Outdoor Live Entertainment Venue, zoning ordinance discussion, recommendation to zoning ordinance, the noise ordinance. Recommended amending Zoning Ordinance to prohibit outdoor live entertainment venues as Special Use and clarify definitions.
10/27/16	CPT Minutes regarding discussion of definition of live entertainment in the Zoning Ordinance.
11/23/16	Memorandum from Planning and Community Development Director to CPT Committee. Discusses possible changes to existing requirements for outdoor live entertainment and possible impacts of outdoor live entertainment in the downtown area and continued analysis of Noise Variance Permits and Outdoor Live Entertainment as a Special Use. Specific questions answered to questions such as an "Art and Entertainment District", impact of downtown music, overlay districts, effect on Center City, should Council hear Special Use case by case,

	outdoor entertainment only in C-2 and C-3, increasing the decibel limit, allowed only in PUDs. Research indicated cities either prohibit outdoor live entertainment or do not regulate it via zoning, but depend on noise ordinance to regulate on complaint basis. Recommendation to amend Zoning Ordinance to prohibit outdoor live entertainment as Special Use, clarify definitions, set specific guidelines for live entertainment, restrict to indoor only unless Noise Variance Permit; establish Arts and Entertainment Overlay Districts with regulations for amplified, live music.
12/01/16	CPT Minutes regarding definition of live entertainment in the Zoning Ordinance. Thorough discussion of questions presented in 11/23/16 Memorandum.
12/13/16	City Council Minutes. Puebla postponed indefinitely.
02/18/18	Staff Report. Planning Commission. Hollywood Corners requests for rezoning property as a SPUD to allow outdoor live entertainment. Live entertainment was discussed. Staff recommends approval of the SPUD for live entertainment for indoor use only.
06/12/18	City Council Minutes. Approval for outdoor live entertainment with limitations of month, days, and times at Hollywood Corners.
08/03/18	Memorandum from Legal to City Council Oversight regarding noise ordinance, decibel sound levels, noise disturbance or disturbing the peace, enforcement, other cities and constitutional considerations.
08/09/18	City Council Oversight Minutes. Discussion of noise ordinance; request for information regarding live outdoor entertainment and agri-weddings.
11/08/18	Staff Report. Planning Commission. UNP PUD amendment to allow outdoor live entertainment at Redrock Canyon Grill. Staff recommends approval. City Council approval on 12/11/18.
01/10/19	Memorandum from Legal to City Council Oversight Committee regarding Noise Ordinance/Live Outdoor Entertainment; move forward to Council Study Session
01/29/19	Council Study Session regarding possible amendments to the Zoning Ordinance relative to outdoor live entertainment. Minutes attached (Attachment 2).
04/11/19	Memorandum to City Council Oversight Committee regarding Zoning Ordinance amendments, Outdoor Music Venue/Outdoor Entertainment Definitions and Noise Ordinance.
05/23/23	City Council approval for outdoor live entertainment at Midway Deli.

DISCUSSION

Noise Ordinance, Sec. 16-201, et seq (Attachment 1)

The Noise Ordinance at Sec. 16-208 lists general and specific prohibitions of acts declared to be in violation of this Section. The list includes horns, radios, television set,

musical instruments,¹ public loudspeakers, animals, loading operation, construction work, domestic power equipment, commercial power equipment, enclosed place of public entertainment, fireworks, racing events, powered model mechanical devices, dynamic engine braking devices, defect in vehicle, refuse compacting vehicles, garbage collection, standing motor vehicles, quiet zones, bells and chimes, fixed sirens, whistles and horns, recreational vehicles, groups or gatherings or people or emergency-type alarms. This list of violations has not caused any significant issues.

The primary complaint revolves around outdoor live music. Sec. 16-205 states the Use District Noise Levels for three different land use categories – residential, commercial and industrial. When a noise source can be identified and its noise measured in more than one land use category, the limits of the most restrictive use shall apply at the boundaries² between the different land use categories. For the purpose of enforcing these provisions a measurement period shall not be less than five minutes nor more than 15 minutes. The permissible sound level at L90³ (noise level exceeded 90% of the measurement period) for residential use category from 7:00 a.m. to 9:00 p.m. is 65dB(A). L10 noise level is 65dB(A) and L1 is 70dB(A).

Attached are two charts. A comparison of noise ordinances in Oklahoma and a decibel comparison around the country. (Attachment 2 and 3.)

Another area of concern is outdoor loudspeakers. The current Noise Ordinance addresses this issue in Sec. 16-208(a)(3) Public loudspeakers.⁴ Loud speakers in bars are commonly used to provide music and create a lively atmosphere, can also contribute to high noise levels when placed outside on a business. While some patrons may appreciate the atmosphere, business owners need to be aware of and comply with any regulations to prevent issues with surrounding businesses and/or residences.

What is a Decibel? (Disclaimer: Author is not a sound expert.)

Decibels (dB) are used to measure the relative loudness of sound or the relative strength of an electrical signal. As decibels rise, loudness quickly increases. Each time a sound's decibel level increases by 10, its intensity multiplies by 10. A decibel scale is used to determine how loud sounds are and if they are safe or harmful to human hearing. The

¹ Operating of any such device in a manner as to be plainly audible at the property boundary of the source or at 50 feet (15m) from such device when operated in or on a vehicle on a public right-of-way or public space, or in a boat on public waters.

² Means an imaginary line exterior to any enclosed structure, at the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person or such imaginary line which separates individual living units in a multiple-family dwelling.

³ Noise level that means the A-weighted sound pressure level that is exceeded to 90 percent of the time in any measurement period (such as the level that is exceeded for nine minutes in a ten-minute period) is denoted L90.

⁴ Sec. 16-201 defines public loudspeakers as using or operating a loudspeaker or sound amplifying equipment in a fixed or movable position or mounted upon any sound vehicle in or upon any street, alley, sidewalk, park, place, or public property, or transmitting music to any persons or assemblages of persons in such a manner as to violate Sec. 16-205 or cause a noise disturbance unless a permit, as provided by Sec. 16-210 is first obtained.

range of sounds measured on the decibel scale is from 0-dB (the quietest sound) to 140 dB (the threshold of pain). A-weighted decibel is an expression of the relative loudness of sounds as perceived by the human ear. How loud is 65dB(A)? Not very loud. Sounds at or below 70 A-weighted decibels are generally safe.

A 10-dB rise is a 10-time leap in loudness. That means an 80-dB sound (a vacuum cleaner) is 10 times louder than a 70-dB sound (a telephone ringing) and 100 times louder than a 60-dB sound (normal conversation).

Sound level meters⁵

Sound meters can be an effective tool for law enforcement for measuring sound levels. They are used in a variety of industries including construction, manufacturing, entertainment and environmental monitoring to ensure noise levels are within safe and acceptable limits. Sound meters work by measuring sound pressure levels in decibels (dB), using a microphone to detect sound waves and an electronic circuit to convert the sound waves into an electrical signal that can be measured. The accuracy of a sound meter depends on its design, calibration and the quality of the microphone. It is important to use them correctly as sound levels can vary depending on factors such as distance, direction and frequency. Phone apps, when used with the appropriate microphone, can be an effective way to take measurements, but they are not always accurate or reliable. Phone app decibel readers could be used to provide a rough estimate of the sound level.

Enforcement

In 2017, the Norman Police Department purchased a 3M SoundPro DL-2. At that time, members of the Norman Police Department received training on the use of the sound device. Since the retirement of the officer responsible for the sound device and the Covid pandemic, the NPD has been operating with reduced staff, and the responsibility of the sound device had been unassigned. Lt. Barry Grippen has located two sound devices in possession of the Norman Police Department.

The 3M SoundPro has been sent to the manufacturer for calibration. Lt. Grippen will schedule training sessions on the proper use of the sound meters. The training will involve information on how to correctly use the sound meters to measure noise levels, interpret readings and maintain the equipment. To effectively measure and monitor noise levels, sound level meters need to be readily available.

Enforcing a noise ordinance can be challenging for the police due to many factors. The police department has limited resources and manpower and must prioritize their efforts

⁵ Sec. 16-210 defines a Sound level meter as an instrument, including a microphone, amplifier, RMS detector and integrator or time average, output meter and/or visual display and weighting networks, used to measure sound levels. The sound level meter shall conform as a minimum to the requirements of ANSI S 1.4-1971 Type 2 or its successor publication; and be set to an A-weighted response. An acoustical calibrator accurate to within plus or minus one decibel shall be used to verify the before and after calibration of the sound level meter on each day noise measurements are taken.

based on the severity of the situation and other matters. Noise complaints may be considered lower priority compared to other crimes or emergencies. Responding to noise complaints promptly is also challenging. Not all offices may have access or training or to all equipment which makes it difficult to gather evidence to support a noise violation. If noise violations are caused by repeat offenders who are aware of the enforcement challenges, they may continue to violate the noise ordinance, knowing chances of police contact may be low.

Measuring noise levels accurately is not easy. Once the sound level device has been selected and calibrated, the ambient⁶ sound level must be determined at a particular location at a spot that is representative of the overall noise level. Ambient noise can vary throughout the day and in different areas, so multiple readings may need to be obtained. Once the ambient level is determined, it can still be challenging for law enforcement to obtain measurements when responding to a complaint. By the time the police arrive at the location, the noise could have been changed or subsided. The Norman police have two sound level devices, which makes it difficult for officers responding to a call to have possession or access to the equipment. Knowing the specific land use category of the location and the boundary to measure the sound level can also be challenging. (See Footnote 2).

Disturbing the Peace (Sec. 24-403)

Despite the challenges in obtaining accurate noise levels, police may still attempt to assess the noise level using their judgment and experience with observations, statements and perception.

Disturbing the Peace is a criminal offense that typically involves making excessive noise or engaging in disruptive behavior that disturbs the peace of another. Examples of behavior that could be considered disturbing the peace include loud parties, playing loud music, shouting, screaming, fighting or engaging in other loud behavior that disrupts the peace of another. Part(c) of Sec. 24-403 states “No person shall disturb the peace of another by playing or creating loud or unusual sounds.”

A citizen signed complaint for disturbing the peace against another person is different than a police officer citing a person for violation of the noise ordinance. A citizen signed complaint is a written charge filed by a private citizen alleging that another person has committed a violation of the law. This typically involves neighbors (in apartments or a neighborhood) or citizens in close proximity to a large gathering, whether it is a private residence or commercial business, including fraternity houses.

⁶ 16-201 defines ambient sound pressure level as the sound pressure level of the all-encompassing noise associated with a given environment, usually a composite of sounds from many sources. It is also the A-weighted sound pressure level exceeded 90 percent of the time based on a measurement period of not less than ten minutes nor more than 30 minutes.

Noise Variance Permit

Although the Noise Ordinance sets decibel levels for noises, there is a provision in the Code to allow someone to lawfully exceed the levels under certain circumstances. Sec. 16-210 requirements for a Noise Permit. Applications for a permit for relief from the noise restrictions may be made to the City Manager or authorized representative (in this case Norman Police Department). The application shall contain all conditions for which the permit has been granted, including but not limited to the effective dates, time of day, location, sound pressure level, or equipment limitations. The relief from the noise restrictions requested may be granted on good and sufficient showing; additional time is needed for the applicant to alter or modify the activity/operation to comply, the activity/operation or noise is temporary and cannot be done in compliance with the ordinance, and there is not a reasonable alternative available to the applicant for the event. With the variance, additional conditions or requirements may be given to minimize adverse effects on the community or surrounding neighborhood. A permit can be approved for a maximum of up to four consecutive days, and no more than seven permits per site annually. An applicant may petition for additional permits on appeal to City Council.

New Orleans

In December 2020, New Orleans produced an 87 page Outdoor Live Entertainment Study Executive Summary. New Orleans City staff conducted case study research on outdoor live entertainment best practices in peer cities such as Austin, Memphis, Nashville, San Francisco, Detroit and Seattle. Study topics included common practice to prescribe decibel limits, hours of operations, sound abatement plans, orientation and design of sound equipment, distance from residential uses or districts, outdoor space size, and to clearly delineate enforcement mechanisms and appeals processes. The study stated a noise ordinance is only effective if enforceable.

In November 2022, New Orleans adopted a new ordinance titled Public Indoor and Outdoor Entertainments. (Attachment 4). The Code defined Live Entertainment as:

“Live performances by musical act, theatrical play or act, including stand-u comedy, magic, dance clubs, disc jockey performances, and musical accompaniment, as that term is used in the Comprehensive Zoning Ordinance of the City of New Orleans, performed in conjunction with a bar, standard restaurant, amusement facility, winery, micro-distillery, distillery, brewery, reception facility or cultural facility, but excluding such activity performed for the practice of private enjoyment of the residents of a dwelling and their guests, and as otherwise provided in the Comprehensive Zoning Ordinance of the City of New Orleans.”

New Orleans new Code also prohibits live performances in Residential zoning districts and made it unlawful for any person, landowner or lessee to organize, promote, conduct or cause to be conducted live entertainment, amusement or assembly of persons in any residential zoning district of the city.

Austin, Texas – Outdoor Music Venue Permit (Attachment 5)

Austin, Texas, known as the Live Music Capital of the World, is home to hundreds of live music venues and some of the premiere music festivals in the country. The University of Texas, located in Austin, is a member of the Big XII Conference and is moving to the SEC along with the University of Oklahoma in 2024. Austin has a Music and Entertainment Division, a part of the Economic Development Department, which delivers programs and services to innovate and grow Austin's commercial and nonprofit music and entertainment industries.

The City of Austin requires commercial establishments that use sound equipment outdoors (in any space not fully enclosed by four solid walls and a roof) to obtain an Outdoor Music Venue Permit. Title 9, Chapter 9-2 of the Austin Code of Ordinances, regulates noise and amplified sound, including the Outdoor Music Venue Permit. (Attachment 4). Prior to completing an Application for the Outdoor Music Venue Permit, applicants are encouraged to consult with the Entertainment Services Group as soon as possible to discuss the location, proximity to residential uses, impacts to the review and permit allowance, and to help minimize the sound impact to residential uses.

All Outdoor Music Venues ("OMV") must be permitted. The outdoor sound allowances, including hours and sound levels, are customized for each permit based on the review criteria. The specific hours for each establishment are customized in the permit. The latest times for outdoor amplified sound allowed by city code vary based on location within Austin. The specific sound levels for each establishment are customized in the permit and typically include dBA and dBC maximums. The loudest sound level allowed by city code is 85 dBA, with a 70 dBA maximum for restaurant uses. Permits within 600 feet of property zoned and used as residential have maximum hours of Sunday-Thursday, 10 a.m.-8 p.m.; Friday/Saturday, 10 a.m.-10 p.m. and can be extended up to 2 hours per day with support from nearby owners, tenants, and neighborhood organizations.

The Sound Enforcement responds to complaints to determine if a violation has occurred, provide education, seek voluntary compliance, and take enforcement action as needed, if compliance is not achieved; conduct routine inspections of commercial OMV; issue warnings to gain compliance; or issue citations to the business owner or manager on-site; and/or file an affidavit on the business owner of record in municipal court; and may, in addition, file an affidavit on the property owner of record.

Austin's Outdoor Music Venue Permit requires compliance with the Good Neighbor Policy (a set of good business practices required as a condition of an Outdoor Music Venue permit to maintain the safety, quiet and cleanliness of the area surrounding an Outdoor Music Venue and to make permit holders accountable) and a Sound Impact Plan.

The Austin Sound Impact Plan is set out below.

§ 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, hours of availability for 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.

OKC Zoo Amphitheatre Policies and Procedures

Another example of requiring a sound device on-site is the OKC Zoo. The OKC Zoo policies and procedures requires the maximum desired sound level during Zoo Amphitheatre activities is 95 dB A measured 230 feet from the stage. At the Trust's expense, a tripod-mounted sound monitor shall continuously monitor the sound level during the Amphitheatre events.

SUMMARY

Since 2016, Staff has discussed the issue of outdoor live music and possible amendments to the Noise Ordinance. Residential uses and businesses located around entertainment venues have a right to be protected from the impacts live/amplified outdoor music venues can create. Residents often feel that businesses are excessively noisy and bad neighbors while business owners feel they are penalized by neighbors who are overly sensitive.

If the City desires to allow outdoor live entertainment, Austin's Outdoor Music Venue Permit model is an effective strategy, especially including the Sound Impact Plan and requirement for the availability and use of a decibel meter on site. Staff desires direction in amending the Noise Ordinance to include a process for an Outdoor Music Venue Permit similar to Austin, Texas, requiring availability and use of decibel readers on site, and causing the operator of the venue to self-regulate.

Attachment 1

City of Norman Noise Ordinance

ARTICLE 16-II NOISE CONTROL16-201 Definitions16-202 Declaration Of Policy16-203 City Contracts And Purchases16-204 Definitions And Standards16-205 Use District Noise Levels16-206 Motor Vehicle Noise16-207 Sound Level Measurement16-208 Noises Prohibited16-209 Exemptions16-210 Variance16-211 Penalties16-212 Additional Remedies**16-201 Definitions**

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

A-weighted sound level means the sound level as measured with a sound level meter using the A-weighting network. The standard notation is dB(A) or dBA.

Ambient sound pressure level means the sound pressure level of the all-encompassing noise associated with a given environment, usually a composite of sounds from many sources. It is also the A-weighted sound pressure level exceeded 90 percent of the time based on a measurement period of not less than ten minutes nor more than 30 minutes.

Continuous sound means any sound which exists, essentially without interruption, for a period of ten minutes or more.

Cyclically varying noise means any sound which varies in sound level such that the same level is obtained repetitively at reasonably uniform intervals of time.

Decibel means logarithmic and dimensionless unit of measure used in describing the amplitude of sound. The term "decibel" is denoted as dB.

Device means any mechanism which is intended to produce, or which actually produces, noise when operated or handled.

Dynamic braking device (commonly referred to as Jacobs Brake) means a device used primarily on trucks for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes.

Emergency vehicle means a motor vehicle used in response to a public calamity or to protect persons or property from an imminent exposure to danger.

Emergency work means work made necessary to restore property or a public utility to a safe condition following a public calamity, or work required to protect persons or property from an imminent exposure to danger.

Impulsive noise means a noise containing excursions, usually less than one second, of sound levels of 20 dB(A) or more over the ambient sound level using the fast meter characteristic.

Motor vehicle means any vehicle which is self-propelled by mechanical power, including, but not limited to, passenger cars, trucks, truck-trailers, semi-trailers, campers, motorcycles, minibikes, go-carts, mopeds, and racing vehicles.

Muffler means an apparatus consisting of a series of chambers or baffle plates designed for the purpose of transmitting gases while reducing sound emanating from such apparatus.

Noise disturbance means any sound which annoys or disturbs reasonable persons with normal sensitivities, or which injures or endangers the comfort, repose, health, hearing, peace or safety of other persons.

Noise means any sound which is unwanted or which causes or tends to cause an adverse psychological or physiological effect on human beings.

Percentile sound pressure level means tenth percentile noise level. The A-weighted sound pressure level that is exceeded ten percent of the time in any measurement period (such as the level that is exceeded for one minute in a ten-minute period) It is denoted L10.

Ninetieth percentile noise level means the A-weighted sound pressure level that is exceeded 90 percent of the time in any measurement period (such as the level that is exceeded for nine minutes in a ten-minute period). It is denoted L90.

Person means any human being, firm, association, organization, partnership, business, trust, corporation, company, contractor, supplier, installer, user, owner or operator, including any municipal corporation or its officers or employees.

Plainly audible noise means any noise for which the information content of that noise is unambiguously transferred to the listener, such as but not limited to, understanding of spoken speech, comprehension of whether a voice is raised or normal, or comprehension of musical rhythms.

Property boundary means an imaginary line exterior to any enclosed structure, at the ground surface, and its vertical extension, which separates the real property owned by one person from that owner by another person or such imaginary line which separates individual living units in a multiple-family dwelling.

Public right-of-way means any street, avenue, boulevard, highway, or alley or similar place which is owned or controlled by a public governmental entity.

Pure tone means any sound which can be distinctly heard as a single pitch or a set of single pitches. For the purposes of measurement, a pure tone shall exist if the one-third octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave bands by five dB for center frequencies of 500 Hz and above, by eight dB for center frequencies between 160 and 400 Hz, and by 15 dB for center frequencies less than or equal to 125 Hz.

Repetitive impulsive noise means any noise which is composed of impulsive noises that are repeated at sufficiently slow rates such that a sound level meter set at fast meter characteristic will show changes in sound pressure level greater than ten dB(A).

Sound means sound is mechanical energy transmitted by a cyclic series of compressions and rarefactions of molecules of the material or materials through which it passes.

Sound level meter means an instrument, including a microphone, amplifier, RMS detector and integrator or time averager, output meter and/or visual display and weighting networks, used to measure sound levels. The sound level meter shall conform as a minimum to the requirements of ANSI

S 1.4-1971 Type 2 or its successor publication; and be set to an A-weighted response. An acoustical calibrator accurate to within plus or minus one decibel shall be used to verify the before and after calibration of the sound level meter on each day noise measurements are taken.

Sound pressure means the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound.

Sound pressure level means 20 times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micropascals. The sound pressure level is denoted L or SPL.

Stationary noise source means any device, fixed or movable including motor vehicles, which is located or used on property other than a public right-of-way.

Steady noise means a sound pressure level which remains essentially constant during the period of observation, i.e., does not vary more than six dB(A) when measured with the "slow" meter characteristic of a sound level meter.

Use district means those districts established by the City zoning ordinances.

(Code 1976, § 10-311; Ord. No. O-7778-9; Ord. No. O-7778-61)

HISTORY

Adopted by Ord. O-2223-23 on 2/28/2023

16-202 Declaration Of Policy

- (a) The making and creation of excessive, unnecessary or unusually loud noises within the City limits is a condition which has existed for some time and the extent and magnitude of such noises is increasing.
- (b) The making, creation or maintenance of such excessive, unnecessary or unusually loud noises which are prolonged, unusual or unreasonable in their time, place and use affect and are a detriment to public health, comfort, convenience, safety and welfare of the residents of the City.
- (c) The necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted is declared as a matter of public policy, and the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare, and the peace and quiet of the inhabitants of the City.

(Code 1976, § 10-301; Ord. No. O-7778-9)

HISTORY

Adopted by Ord. O-2223-23 on 2/28/2023

16-203 City Contracts And Purchases

- (a) *Compliance of City contractors and subcontractors.* It is the policy of the City to comply with the noise emission standards, as set forth in this chapter, in its own operations and the operations of its contractors and subcontractors shall be notified of and required to comply with the provisions of this article.
- (b) *City purchases.* It is the policy of the City to purchase only equipment which complies to the standards established for the same by this article.

(Code 1976, § 10-302; Ord. No. O-7778-9)

HISTORY

Adopted by Ord. O-2223-23 on 2/28/2023**16-204 Definitions And Standards**

Terminology used in this article may be found in NCC 16-202.

(Code 1976, § 10-303; Ord. No. O-7778-9)

HISTORY

Adopted by Ord. O-2223-23 on 2/28/2023**16-205 Use District Noise Levels**

(a) *Maximum permissible sound levels.* It shall be a violation of this article for any person to operate or permit to be operated any stationary source of sound which either:

- (1) Creates a sound level greater than 15dB(A) above the ambient sound level (L90) within any land use district during any measurement period; or
- (2) Creates a 90th percentile sound level (L90), a tenth percentile sound level (L10) or a first percentile sound level (L1) for any measurement period which exceeds the limits set forth for the following receiving land use districts when measured at the boundary or at any point within the property affected by the noise:

Use District	L 90		L 10		L 1	
	9:00 p.m.— 7:00 a.m.	7:00 a.m.— 9:00 p.m.	9:00 p.m.— 7:00 a.m.	7:00 a.m.— 9:00 p.m.	9:00 p.m.— 7:00 a.m.	7:00 a.m.— 9:00 p.m.
Residential	50dB(A)	55dB(A)	60dB(A)	65dB(A)	65dB(A)	70dB(A)
Commercial	55dB(A)	60dB(A)	65dB(A)	70dB(A)	70dB(A)	75dB(A)
Industrial	65dB(A)	70dB(A)	75dB(A)	80dB(A)	80dB(A)	85dB(A)

When a noise source can be identified and its noise measured in more than one land use category, the limits of the most restrictive use shall apply at the boundaries between different land use categories. For the purpose of enforcing these provisions a measurement period shall not be less than five minutes nor more than 15 minutes.

(b) *Correction for character of sound.*

- (1) For any stationary source of sound which emits a pure tone, cyclically varying sound or repetitive impulsive sound, the limits set forth in subsection (a) of this section shall be reduced by 5 dB(A).
- (2) Notwithstanding compliance with subsection (b)(1) of this section, it shall be a violation of this section for any person to operate or permit to be operated any stationary source of sound which emits a pure tone, cyclically varying or repetitive impulsive sound which creates a noise disturbance.

(Code 1976, § 10-304; Ord. No. O-7778-9; Ord. No. O-8081-5; Ord. No. O-8283-110)

HISTORY

Adopted by Ord. O-2223-23 on 2/28/2023**16-206 Motor Vehicle Noise**

- (a) No person shall drive or move or cause or knowingly permit to be driven or moved a motor vehicle or combination of vehicles at any time in such a manner as to exceed the following noise limits for the category of motor vehicle shown below. The standard measurement height shall be five feet (1.5m) and the measurement distance no less than 25 feet (7.5m). The distance shall be measured from the near side of the nearest monitored traffic lane to the microphone.

Source	Sound Level in dB(A)
Motor vehicles with a manufacturers gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR) of 10,000 pounds or more, or any combination of vehicles towed by such motor vehicle	88
Motorcycles	78
Any other motor vehicle or any combination of vehicles towed by any motor vehicle	78

- (b) This section shall apply to the total noise from a vehicle or combination of vehicles and shall not be construed as limiting or precluding the enforcement of any other provisions of this title relating to motor vehicle mufflers for noise control.
- (c) No person shall operate or cause to be operated any motor vehicle unless the exhaust system of such vehicle is:
- (1) Free from defects which affect sound reduction;
 - (2) Equipped with a muffler or other noise dissipative device; and
 - (3) Not equipped with any cut-out, by-pass or similar device.

(Code 1976, § 10-305; Ord. No. O-7778-9; Ord. No. O-0304-56, § 1)

HISTORY

Adopted by Ord. O-2223-23 on 2/28/2023**16-207 Sound Level Measurement**

Sound level measurements shall be made with a sound level meter Type II or better using the "A" weight scale, in accordance and conforming with the standards promulgated by the American National Standards Institute.

(Code 1976, § 10-306; Ord. No. O-7778-9)

HISTORY

Adopted by Ord. O-2223-23 on 2/28/2023**16-208 Noises Prohibited**

- (a) *General prohibitions.* In addition to the specific prohibitions outlined in subsection (b) of this section and NCC 16-205 and 16-211, it shall be unlawful for any person to make, continue, or cause to be made or continued any noise disturbance within the limits of the City.

(b) *Specific prohibitions.* The following acts are declared to be in violation of this article:

- (1) *Horns and signaling devices.* Sounding of any horn or signaling device on any truck, automobile, motorcycle, emergency vehicle or other vehicle on any street or public place therein except as a danger warning signal, as provided in the State vehicle code, or the sounding of any such signaling device for an unnecessary and unreasonable period of time.
- (2) *Radios, television sets, musical instruments, and similar devices.*
 - a. Using, operating or permitting the use or operation of any radio receiving set, musical instrument, television, phonograph, drum or other machine or device for the production or reproduction of sound, except, as provided for in subsection (b) (3) of this section, in such a manner as to violate NCC 16-205 or cause a noise disturbance.
 - b. The operating of any such device in such a manner as to be plainly audible at the property boundary of the source or at 50 feet (15m) from such device when operated in or on a vehicle on a public right-of-way or public space, or in a boat on public waters.
- (3) *Public loudspeakers.* Using or operating a loudspeaker or sound amplifying equipment in a fixed or movable position or mounted upon any sound vehicle in or upon any street, alley, sidewalk, park, place, or public property, or transmitting music to any persons or assemblages of persons in such a manner as to violate NCC 16-205 or cause a noise disturbance unless a permit, as provided by NCC 16-210 is first obtained.
- (4) *Animals.* Owning, keeping, possessing, or harboring any animal which, by frequent or habitual noisemaking, violates NCC 16-205 or causes a noise disturbance. The provisions of this section shall apply to all private and public facilities, including any animal pounds, which hold or treat animals.
- (5) *Loading operation.* Loading, unloading, opening or otherwise handling boxes, crates, containers, garbage containers or other objects between the hours of 9:00 p.m. and 7:00 a.m. the following day in such a manner as to violate NCC 16-205 or cause a noise disturbance.
- (6) *Construction work.* Operating, or causing to be used or operated, any equipment used in construction, repair, alteration or demolition work on buildings, structures, streets, alleys, or appurtenances thereto:
 - a. In residential or commercial land use districts between the hours of 9:00 p.m. and 7:00 a.m. the following day;
 - b. In any land use district where such operation exceeds the sound level limits for an industrial land use as set forth in NCC 16-205.
- (7) *Domestic power equipment.* Operating or permitting to be operated any power equipment used for home or building repair or grounds maintenance, including, but not limited to, power saw, sander, lawn mower, or garden equipment, in residential or commercial zones:
 - a. Outdoors between the hours of 9:00 p.m. and 7:00 a.m. the following day;
 - b. Any such power equipment which emits a sound level in excess of 74 dB(A) measured at a distance of 50 feet (15m).

- (8) *Commercial power equipment.* Operating or permitting to be operated, any power equipment, except construction equipment used for construction activities, including, but not limited to, chainsaws, pavement breakers, log chippers, powered hand tools:
- In residential or commercial land use districts between the hours of 9:00 p.m. and 7:00 a.m. the following day;
 - In any land use district if such equipment emits a sound pressure level in excess of 82 dB(A) measured at a distance of 50 feet (15m).
- (9) *Enclosed place of public entertainment.* Operating or permitting to be operated in any place of public entertainment any loudspeaker or other source of sound with produces, at a point that is normally occupied by a customer, maximum sound levels of 90 dB(A) or greater as read with the slow response on a sound level meter, unless a conspicuous and legible sign at least 225 square inches in area is posted near each public entrance stating: "WARNING: SOUND LEVELS WITHIN MAY CAUSE HEARING IMPAIRMENT." This provision shall not be construed to allow the operation of any loudspeaker or other source of sound in such a manner as to violate NCC 16-205.
- (10) *Fireworks or explosives.* The use of explosives or fireworks, or the firing of guns or other explosive devices so as to be audible across a property boundary or on a public space or right-of-way, without first obtaining a permit, as provided by NCC 16-210. This provision shall not be construed to permit conduct prohibited by other statutes, ordinances or regulations governing such activity.
- (11) *Racing events.* Permitting any motor vehicle racing event at any place in such manner as to violate NCC 16-205 or cause a noise disturbance, without first obtaining a permit, as provided by NCC 16-210.
- (12) *Powered model mechanical devices.* The flying of a model aircraft powered by internal combustion engines, whether tethered or not, or the firing or operating of model rocket vehicles or other similar noise-producing devices, between the hours of 9:00 p.m. and 7:00 a.m. the following day or in such a manner as to violate NCC 16-205 or cause a noise disturbance.
- (13) *Dynamic engine braking devices.* (Commonly referred to as Jacobs Brake.) Operating any motor vehicle with a dynamic engine braking device engaged except for the aversion of imminent danger.
- (14) *Defect in vehicle.* Operating or permitting to be operated or used any truck, automobile, motorcycle, or other motor vehicle which, by virtue of disrepair or manner of operation, violates NCC 16-205 or causes a noise disturbance.
- (15) *Refuse compacting vehicles.* The operating or causing or permitting to be operated or used any refuse compacting vehicles which creates a sound pressure level in excess of 74 dB(A) at 50 feet (15m) from the vehicle.
- (16) *Garbage collection.* The collection of garbage, waste or refuse between the hours of 9:00 p.m. and 7:00 a.m. the following day:
- In any area zoned residential, or within 300 feet of an area zoned residential;
 - In any land use district so as to cause a noise disturbance.
- (17) *Standing motor vehicles.* The operating or causing or permitting to be operated any motor vehicle or any auxiliary equipment attached thereto in such a manner as to violate NCC 16-205 or cause a noise disturbance for a consecutive period longer than 15 minutes during which such vehicle is stationary in a residential zone.

- (18) *Quiet zones.* Creating noise in excess of the residential standard, as defined in NCC 16-205, within the vicinity of any school, hospital, nursing home, institution of learning, court, or other designated area, while the same is in use, provided conspicuous signs are displayed in the streets indicating that the same is a quiet zone.
- (19) *Bells and chimes.* Sounding, operating or permitting to sound or operate an electronically amplified signal from any bell, chime or clock, including, but not limited to, bells, chimes or clocks in schools, houses of religious worship or governmental buildings, which fails to meet the sound level standards set forth in NCC 16-205 for more than five minutes in any hour.
- (20) *Fixed sirens, whistles and horns.* The sounding or causing the sounding of any whistle, horn or siren as a signal for commencing or suspending work, or for any other purpose except as a sound signal of imminent danger or the testing of such equipment, in such a manner as to violate NCC 16-205 or cause a noise disturbance.
- (21) *Vehicle, recreational vehicle, or motorboat repairs and testing.* Repairing, rebuilding, modifying, or testing any vehicle, recreational vehicle, motorcycle or motorboat in such a manner as to cause a noise disturbance across a residential real property boundary or within a quiet zone.
- (22) *Groups or gatherings of people.* Talking, laughing, yelling, singing, or otherwise making noise by two or more people between the hours of 9:00 p.m. and 7:00 a.m. the following day in such a manner as to violate NCC 16-205 or cause a noise disturbance.
- (23) *Emergency-type alarms.* The sounding, operating or permitting to sound or operate an electronically amplified signal from an alarm which fails to meet the sound level standards set forth in NCC 16-205 for more than 15 minutes in any hour; or the testing of such emergency alarm which fails to meet the sound level standards set forth in NCC 16-205 for more than five minutes in any 24-hour period. Testing of any emergency type alarm shall be prohibited between the hours of 9:00 p.m. and 7:00 a.m.

(Code 1976, § 10-307; Ord. No. O-7778-9; Ord. No. O-7879-52; Ord. No. O-9900-31)

HISTORY

Adopted by Ord. O-2223-23 on 2/28/2023

16-209 Exemptions

The provisions of this article shall not apply to:

- (a) The emission of sound for the purpose of alerting persons to the existence of an emergency;
- (b) The emission of sound in the performance of emergency work;
- (c) The authorized testing of public safety equipment. This shall include, but not be limited to, safety signals and alarm devices, storm warning sirens or horns and the authorized testing of such equipment, emergency vehicle sirens or horns used when responding to an emergency, and emergency pressure relief valves;
- (d) An organized school sponsored sporting event;
- (e) Public utilities under the authority of the Oklahoma Corporation Commission;
- (f) Interstate railway locomotives and trains en route, and aircraft under authorization by the Federal Aviation Administration;

- (g) Noise created or to be created as a result of a noise permit under NCC 16-210, such that a permit shall be issued beforehand by the City Manager and/or his designee, and such event shall be conducted in accordance with the provisions of such permit.

(Code 1976, § 10-308; Ord. No. O-7778-9; Ord. No. O-0203-19)

HISTORY

Adopted by Ord. O-2223-23 on 2/28/2023

16-210 Variance

- (a) Applications for a permit for relief from the noise restrictions in these ordinances may be made to the Police Department of the City. Any permit granted by the Police Department or their authorized representative shall contain all conditions upon which said permit has been granted, including, but not limited to, the effective dates, time of day, location, sound pressure level, or equipment limitation. The relief requested may be granted upon good and sufficient showing:

- (1)
 - a. That additional time is necessary for the applicant to alter or modify his activity or operation to comply with this article; or
 - b. That the activity, operation, or noise source will be of temporary duration and cannot be done in a manner that would comply with this article; and

- (2) That no reasonable alternative is available to the applicant.

- (b) The Police Department may prescribe any reasonable conditions or requirements deemed necessary to minimize adverse effects upon a community or the surrounding neighborhood.
- (c) A permit granted may be granted only for a maximum time period of up to four consecutive days. No more than seven permits based on the premises or location, with the exception of public parks, may be issued in one year.
- (d) Requests for additional permits may be authorized by appeal to the City Manager.

(Code 1976, § 10-309; Ord. No. O-7778-9; Ord. No. O-0203-19)

HISTORY

Adopted by Ord. O-2223-23 on 2/28/2023

16-211 Penalties

Any person violating any provision of this article may be punished by a fine and/or imprisonment as provided in the City penalty and fine schedule. Each time such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

(Code 1976, § 10-312; Ord. No. O-7778-9; Ord. No. O-8081-5; Ord. No. O-9596-45; Ord. No. O-9900-11; Ord. No. O-0506-10)

HISTORY

Adopted by Ord. O-2223-23 on 2/28/2023

16-212 Additional Remedies

Violations of sections NCC 16-205 through 16-210 are deemed and declared to be a nuisance, and such may be subject to summary abatement by means of a restraining order or injunction issued by a court of competent jurisdiction.

(Code 1976, § 10-313; Ord. No. O-7778-9)

HISTORY

Adopted by Ord. O-2223-23 on 2/28/2023

Attachment 2

Description of Ordinances
Other Oklahoma Cities

City	Description of Ordinances
OKC	§§ 34-1-12, similar to Norman with same decibel levels with exception of L ¹ but provides more guidance regarding law enforcement.
Moore	§§ 10-421-430 similar to Norman. Addresses sound production devices that are plainly audible between 10:00 pm and 7:00 am in a dwelling or audible fifty feet from public property or right-of-way. Includes specific prohibitions on outdoor public address systems and unusual noises, music, or strong vibrations.
Edmond	§§ 8.12.40-70 includes information scattered throughout ordinances without using decibels—very distinguishable from OKC or Norman.
Lawton	§§ 15-4-2-421-424 is similar to Norman but does not reference decibels, references prima facie evidence.
Enid	§5-8-1 General prohibition on “any loud, unnecessary, unusual or objectionable noise” disturbing the public or annoying inhabitants. Exemption provided for providing music “to the exclusive enjoyment of persons actually on the premises or within the place of business of such person” so long as not so loud to cause offense, annoy public, or disturb peace; however, no loud speakers allowed between 10:00 pm and 6:00 am.
Stillwater	§ 16-79 Noises prohibited generally; § 18-71 Public nuisances including loud/unusual noises; § 16-83 prohibits loud music with limits for day and night based on distance in residential areas and provides guidelines on bass.
Owasso	<p>§ 10-311 addresses disturbing peace and quietude with “any contrivance” with an exception for religious bells.</p> <p>§ 10-312 Noises—prohibits creating loud or unnecessary noises that is detrimental or disturbs peace of another between 11:00 pm and 7:00 am such to disturb a residence.</p>
Tulsa	§5-8-1 similar to Broken Arrow, includes quiet hours without discussing decibels.
Broken Arrow	§ 16-12 Disturbing the peace, disorderly conduct includes timeframes but also establishes them as prima facie evidence. Does not discuss decibels.

Attachment 3

Decibel Comparisons
Other Cities

Decibel Comparisons

City	Day dB(A)	Night dB(A)
Norman, OK	55 L ⁹⁰ , 65 L ¹⁰	50 L ⁹⁰ , 60 L ¹⁰
Oklahoma City, OK	55 L ⁹⁰ , 65 L ¹⁰	50 L ⁹⁰ , 60 L ¹⁰
Fort Worth, TX	70	60
Tuscaloosa, AL	80	75
Waco, TX	85	80
Austin, TX	75 *sound equipment	(beyond property line)
Portland, OR	55-65 (mixed use)	
Los Angeles, CA	45	
Charleston, SC	67	
Columbia, SC	40-65 (cycle variables)	
Kent, WA	55	45
Lafayette, LA	60	50
Round Rock, TX	55	50
Hartford, CT	55	45
Fargo, ND	55	50
Provo City, UT	65-85	55-60
Independence, MO	60	60

Attachment 4

New Orleans Public Indoor and Outdoor Entertainments Ordinance

ARTICLE VII. - PUBLIC INDOOR AND OUTDOOR ENTERTAINMENTS

*Footnotes:**--- (10) ---*

Editor's note— M.C.S., Ord. No. 29257, § 1, adopted Nov. 17, 2022, amended the title of Art. VII to read as herein set out. The former Art. VII was titled "Public Outdoor Musical Entertainments."

Cross reference— *Businesses*, ch. 30.

State Law reference— *Regulation of concerts by city, authorized*, R.S. 4:7.

Sec. 14-306. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Live entertainment means live performances by musical act, theatrical play or act, including stand-up comedy, magic, dance clubs, disc jockey performances, and musical accompaniment, as that term is used in the Comprehensive Zoning Ordinance of the City of New Orleans, performed in conjunction with a bar, standard restaurant, amusement facility, winery, micro-distillery, distillery, brewery, reception facility, or cultural facility, but excluding such activity performed for the practice or private enjoyment of the residents of a dwelling and their guests, and as otherwise provided in the Comprehensive Zoning Ordinance of the City of New Orleans.

(Code 1956, § 63-40; M.C.S., Ord. No. 29257, § 1, 11-17-22)

Cross reference— Definitions generally, § 1-2.

Sec. 14-307. - Prohibited in R zoning districts.

Except as otherwise provided in this chapter and the comprehensive zoning ordinance, it shall be unlawful for any person, landowner or lessee, to organize, promote, conduct or cause to be conducted live entertainment, amusement or assembly of persons in any residential zoning district of the city.

(Code 1956, § 63-41; M.C.S., Ord. No. 29257, § 1, 11-17-22)

Sec. 14-308. - Permit required.

No person, owner, occupant, or tenant shall allow, authorize, or cause to be performed indoor or outdoor live entertainment at his or her property without first having obtained approval from the department of safety and permits and as permitted by the comprehensive zoning ordinance. A separate permit is required for indoor live entertainment and outdoor live entertainment.

(M.C.S., Ord. No. 29257, § 2, 11-17-22)

Sec. 14-309. - Same—Application.

- (1) The department of safety and permits shall administer annual live entertainment permit applications and regularly publish listing of properties with annual indoor and outdoor live entertainment permits and status of same, including those permits issued as conditional uses under the comprehensive zoning ordinance.
- (2) The live entertainment permit application shall require the following to be submitted for review by the director of the department of safety and permits:
 - (a) Noise abatement plan addressing the intended use of amplification, noise levels, need for soundproofing, and compliance with the sound ordinance;
 - (b) A security and operation plan, including exterior security camera provisions, approved by the director of the department of safety and permits;
 - (c) Approval of the city council for a conditional use where required by the comprehensive zoning ordinance; and
 - (d) A management plan demonstrating the on-site presence of a manager during the event; layout of performance areas, visitor facilities, such as seating areas and restrooms, and all ingress and egress points to the site; provisions for recycling and waste removal; days and hours of operation, including set-up and take-down times; and a description of crowd control and security measures.
- (3) Failure to adhere to the submitted plans shall be considered a violation of this section.

(M.C.S., Ord. No. 29257, § 2, 11-17-22)

Sec. 14-310. - Fee schedule for annual permits.

Permits required by this article shall be paid for by the applicant at the time of issuance according to the following schedule. These fees shall be nonrefundable and shall not be waived. For purposes of this section, the term "nonprofit" shall mean an organization that is exempt from federal income tax under Section 501(c) of the Internal Revenue Code, is a Louisiana nonprofit corporation in good standing with an Employer Identification Number issued by the Internal Revenue Service, or is a school operated by the Orleans Parish School Board or Recovery School District.

- (1) For live entertainment conducted indoors, whether or not admission is charged or fee exacted in any manner, per year.

Gross sales of:	Nonprofit	All Others
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\$0—\$10,000	125.00	250.00
\$10,001—\$50,000	250.00	500.00
Over \$50,000	375.0	750.00

(2) For live entertainment conducted outdoors, whether or not admission is charged or fee exacted in any manner, per year:

Gross sales of:	Nonprofit	All Others
\$0—\$10,000	125.00	250.00
\$10,001—\$50,000	250.00	500.00
Over \$50,000	375.00	750.00

(M.C.S., Ord. No. 29257, § 2, 11-17-22)

Sec. 14-311. - Permit duration and renewal.

- (1) Permits shall be valid from the date of issuance through March 31 of each calendar year. Renewal applications and fees shall be due and payable on April 1 for the ensuing year. Failure to pay permit fees shall result in the imposition of delinquency penalties, as provided in subpart (2).
- (2) The delinquency penalty shall be 25 percent over and above the regular fee, beginning five days after April 1, if the failure to pay is for not more than 30 days. There shall be an additional five percent penalty for each additional 30 days or fraction thereof during which the failure continues.
- (3) Should it become necessary for the city to make a claim in any court of competent jurisdiction for all or a portion of any of the permit fees and penalties provided in this article, an additional charge of ten percent may be added for attorney fees.

(M.C.S., Ord. No. 29257, § 2, 11-17-22)

Sec. 14-312. - Permits to be displayed.

All permits issued under the provisions of this article shall be displayed in a conspicuous place on the premises at all times. If the establishment's ability to host live entertainment is granted by conditional use ordinance from the city council, the operating provisos relative to that use shall also be displayed. Failure to comply with this section shall constitute a violation of this article.

(M.C.S., Ord. No. 29257, § 2, 11-17-22)

Sec. 14-313. - Enforcement.

- (1) Any violation of this article, or applicable provisions of the comprehensive zoning ordinance, or any conditional use pertaining to live entertainment, or any other applicable law is prohibited, and shall subject the permittee to penalties, which may include revocation or suspension of the live entertainment permit, fines or fees, and any other remedy allowed by law.
- (2) Notice and hearing requirements for determining violation(s) shall be in accordance with the administrative procedures provided in chapter 6, article II of this Code.

(M.C.S., Ord. No. 29257, § 2, 11-17-22)

Sec. 14-314. - Denial or rescission.

Any misstatement or suppression of facts in any application for a permit under this article shall be grounds for refusal of the permit or rescission thereof if already issued.

(M.C.S., Ord. No. 29257, § 2, 11-17-22)

Secs. 14-315—14-330. - Reserved.

Attachment 5

Austin, Texas
Outdoor Music Ordinance

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

- (A) Unless a more restrictive decibel limit is required by a sound impact plan, a condition in an outdoor music venue permit, or by another provision of this code, sound equipment for which a permit has been issued under Subpart B (*Live Music Permits*) may be operated at the following decibel levels:
- (1) Up to 85 decibels between 10:00 a.m. and:
 - (a) 10:30 p.m. on Sunday through Wednesday;
 - (b) 11:00 p.m. on Thursday; or
 - (c) 12:00 midnight on Friday, Saturday, or the night before New Year's Day.
 - (2) Up to 85 decibels at an outdoor music venue with an occupancy capacity of 600 or fewer people located in the Warehouse District or Sixth Street District, between 10:00 a.m. and 2:00 a.m.
 - (3) Up to 85 decibels during the spring festival season, between 10:00 a.m. and 2:00 a.m.
 - (4) Up to 85 decibels at an outdoor music venue located in the Red River Cultural District, between 10:00 a.m. and:
 - (a) 10:30 p.m. on Sunday through Wednesday;
 - (b) 12:00 midnight on Thursday; or
 - (c) 1:00 a.m. on Friday, Saturday, or the night before New Year's Day.
- (B) In addition to the requirements of Subsection (A) of this section, use of sound equipment at an outdoor music venue is:
- (1) limited to 70 decibels if the venue is associated with a restaurant (general) use, as prescribed under Section 25-2-808 (*Restaurants and Cocktail Lounges*), and the hours of operation prescribed under Subsection (A) of this section; and
 - (2) subject to the decibel limits prescribed under Section 25-2-583 (*Commercial Recreation (CR) District Regulations*), if located in a commercial recreation district.
- (C) The decibel limits prescribed under this section must be measured with a decibel meter approved by the music office.

Source: Ord. 20110210-029; Ord. 20110303-012; Ord. No. 20180426-008, Pt. 3, 5-7-18; Ord. No. 20191114-011, Pt. 1, 11-25-19.

§ 9-2-31 - ADDITIONAL APPLICATION REQUIREMENTS.

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

district.

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

Source: Ord. 20110210-029; Ord. 20111215-055; Ord. No. 20191114-011, Pt. 3, 11-25-19.

§ 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 9-2-39 (Permit for an Outdoor Music Venue) shall prominently post signs that include 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;
 - (5) the date on which the permit for the site or property expires; and
 - (6) if applicable, a mobile response code that links to the sound impact plan or temporary event impact plan required in connection with the amplified sound permit.

Source: Ord. 20130822-033; Ord. No. 20141106-021, Pt. 2, 11-17-14; Ord. No. 20180510-018, Pt. 6, 5-21-18.

§ 9-2-33 - TEMPORARY USE OF SOUND EQUIPMENT.

- (A) This section applies to the temporary use of sound equipment outdoors at an event that is not subject to City Code Chapter 4-20 (Special Events).
- (B) In this section, temporary use of sound equipment outdoors is the use of sound equipment on:
- (1) any part of a premises that is not fully enclosed by permanent, solid walls, and roof; and
 - (2) four or fewer days during a 30-day period.
- (C) Except as provided in Subsection (J), a person must obtain a permit issued under this section for the temporary use of sound equipment.
- (D) Subject to the restrictions in Article 2, Divisions 1 (*General Provisions*) and 3 (*Outdoor Music Permits*), the accountable official is authorized to issue a sound permit that allows for the temporary use of sound equipment.
- (E) A sound impact plan that complies with Section 4-20-43 (Sound Equipment for Outdoor Special

Event Venues) is required for a permit issued under this section.

- (F) To obtain a permit issued under this section, a person must submit an application that complies with Section 9-2-12 (*Application Requirements*) at least 30 days before the beginning of the event.
- (G) If an application for a temporary sound permit is denied, the applicant may file an appeal that complies with the requirements in Section 4-20-35 (*Appeal of Special Event Application Denial*).
- (H) A permit issued under this section is subject to Section 4-20-61 (*Revocation of Special Event Permit*).
- (I) The maximum number of days a premises may be the subject of a permit described in this section is 19 days per calendar year.
- (J) In lieu of a permit described in this section, an applicant may apply for a permit authorized in Article 2, Division 3 (*Outdoor Music Permits*).

Source: Ord No. 20191114-011, Pt. 2, 11-25-19.

Subpart B. - Live Music Permits.

§ 9-2-35 - APPLICABILITY.

A live music permit is required under this subpart to use 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.

Source: Ord. 20110210-029.

§§ 9-2-36—9-2-38 - RESERVED.

Editor's note— Ord. No. 20180510-018, Pt. 5, effective May 21, 2018, repealed §§ 9-2-36—9-2-38, which pertained to types of live music permits; 24-hour live music permit; multi-day special events permit. See Code Comparative Table for complete derivation.

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

- (A) The accountable official may issue a 1-year permit authorizing the use of sound equipment for outdoor music on an ongoing basis, subject to the requirements of this section and Divisions 1 (*General Provisions*) and 3 (*Outdoor Music Permits*) of this article.
- (B) The accountable official shall provide notice of an application under this section in accordance with Section 9-2-54 (*Notice of Application*).
- (C) A decision by the accountable official to approve or deny a permit under this section may be appealed under Section 9-2-56 (*Administrative Appeal*).

Source: Ord. 20110210-029.

§ 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 surrounding 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).

Source: Ord. 20130822-033.

§ 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.

Source: Ord. 20130822-033.

Subpart C. - Review, Notification, and Appeal.

§ 9-2-50 - MUSIC OFFICE REVIEW.

- (A) Within three days of receiving an application for an outdoor music venue permit under Section 9-2-39 (Outdoor Music Venue Permit), the accountable official must forward the application to the music office for review under this section.
- (B)

After receiving an application from the accountable official under Subsection (A) of this section, the music office shall conduct an appropriate level of 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. For an event on city parkland for which review is required under Section 8-1-41 (*Use of Sound Equipment*), the music office shall coordinate its review and investigation with the director of the Parks and Recreation Department.

- (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 heightened restrictions for one or more of the following that exceed the standards required under Section 9-2-30 (*Decibel Limits for Outdoor Music*) or other provisions of this chapter:
- (1) limits on attendance and capacity;
 - (2) decibel limits, which may include a requirement to use C-weighting in addition to standard decibel measurements; and
 - (3) hours of operation.
- (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.

Source: Ord. 20110210-029; Ord. No. 20141106-021, Pt. 3, 11-17-14; Ord. No. 20141106-022, Pt. 2, 11-17-14; Ord. No. 20180510-018, Pt. 6, 5-21-18.

§§ 9-2-51, 9-2-52 - RESERVED.

Editor's note— Ord. No. 20180510-018, Pt. 5, effective May 21, 2018, repealed §§ 9-2-51, 9-2-52, which pertained to additional review for temporary events and temporary event impact plan. See Code Comparative Table for complete derivation.

§ 9-2-53 - DECISION ON APPLICATION.

- (A) The accountable official shall approve an application under Section 9-2-39 (*Outdoor Music Venue Permit*) if:
 - (1) the accountable official finds that the conditions included in the sound impact plan or other recommendation of the music office are sufficient to:
 - (a) mitigate adverse impacts of the proposed venue on adjacent residential, commercial, and civic uses; and
 - (b) protect the health and safety of residents living in areas adjacent to the proposed venue.
- (B) If the accountable official finds that an application does not meet the requirements in Subsection (A) of this section, the accountable official shall:
 - (1) request that the music office reconsider its recommendation to include additional restrictions;
 - (2) approve the application subject to additional conditions and restrictions that the accountable official determines are sufficient to meet the requirements in Subsection (B) of this section; or
 - (3) deny the application.
- (C) The accountable official may not deny an initial permit for an outdoor music venue located within the footprint of a restaurant (general) use under Section 25-2-808 (*Restaurants and Cocktail Lounges*), but the accountable official may:
 - (1) impose conditions on the permit, as provided in Subsection (B)(2) of this section; and
 - (2) deny an application to renew the permit under Section 9-2-62 (*Denial of Permit for Repeated Offenses*) based on repeated violation of applicable decibel limits.
- (D) A decision under this section must:
 - (1) be in writing;
 - (2) describe conditions of approval, including requirements of the temporary event impact plan; or
 - (3) be mailed to the applicant and any interested party within three days after the decision is issued, per the requirements of Section 9-2-54 (*Notice of Application*).
- (E) The accountable official may not issue a decision under this section earlier than the 14th day after the date that notice of the application is provided under Section 9-2-54 (*Notice of Application*).

Source: Ord. 20110210-029; Ord. 20121018-024; Ord. No. 20191114-011, Pt. 4, 11-25-19.

§ 9-2-54 - NOTICE OF APPLICATION.

- (A) Not later than the 14th day after receiving an application under Section 9-2-39 (*Permit for an Outdoor Music Venue*), the accountable official shall provide notice of the application under this section.
- (B) Except as provided in Subsection (C) of this section, the accountable official shall mail notice to:
 - (a) the applicant;
 - (b) notice owner of a single-family use located within 600 feet of the site or property included in the application;
 - (c) notice owner of a multi-family use located adjacent to the site or property included in the application; and
 - (d) registered neighborhood organizations whose declared boundaries are within 600 feet of the site or property included in the application.
- (C) If the application is for renewal of an existing permit under Section 9-2-39 (*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) describe:
 - (a) the venue and duration of proposed events;
 - (b) the size of the venue and anticipated attendance; and
 - (c) whether the sale or consumption of alcohol will be allowed at the event;
 - (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 Events Unit; Transportation Department, Right of Way Management Division; and Austin Fire Department, Fire Marshall.

Source: Ord. 20110210-029; Ord. 20111215-055; Ord. No. 20180510-018, Pt. 6, 5-21-18.

§ 9-2-55 - INTERESTED PARTIES.

- (A) Except as provided in Subsection (B), a person is an interested party for an application requiring notice under Section 9-2-54 (*Notice of Application*) if the person:
- (1) is the applicant or the record owner of property for which the permit is sought; or
 - (2) communicates an interest in the application and is:
 - (a) an individual entitled to notice under Section 9-2-54 (*Notice of Application*); or
 - (b) a representative of a neighborhood organization entitled to notice under Section 9-2-54 (*Notice of Application*).
- (B) A person communicates an interest in a proposed outdoor music venue for purposes of Subsection (A)(2) of this section by communicating his or her concerns, in writing or by phone, to the accountable official. The communication must:
- (1) generally identify the issues of concern;
 - (2) include the person's name, telephone number, and mailing address;
 - (3) be delivered before the earliest date on which action on the application may occur under Subsection 9-2-53(G) (*Decision on Application*); and
 - (4) if the communication is by telephone, be confirmed in writing not later than seven days after the earliest date that a decision on the application can be made under Subsection 9-2-53(G) (*Decision on Application*).

Source: Ord. 20110210-029; Ord. 20121018-024.

§ 9-2-56 - ADMINISTRATIVE APPEAL.

- (A) Except as provided in Subsection (E) of this section, an interested party may appeal a decision by the accountable official on an application for a permit under Section 9-2-39 (*Permit for an Outdoor Music Venue*).
- (B) An appeal under this section must be filed with the accountable official, in writing, no later than the 14th day after the date the decision is issued and must describe the decision being appealed and the specific grounds for the appeal.
- (C) Unless otherwise agreed to by the parties, a public hearing on an appeal shall be held at the earliest council meeting for which notice of the hearing can be timely provided.
- (D) At any time prior to an appeal hearing, the accountable official may revise a permit to include conditions agreed to by the parties that are within the scope of the accountable official's authority under this chapter.
- (E) In deciding an appeal, the city council may uphold, reverse, or modify a decision of the accountable official, including the requirements and conditions of a multi-day special event permit.
- (F) A neighborhood organization may not appeal a decision to approve a permit for property located within the following boundaries:
 - (1) Eastern boundary: I-35;
 - (2) Southern boundary: the northern shore of Lady Bird Lake;
 - (3) Western boundary: north along the eastern shore of Shoal Creek, north along West Avenue to 7th Street, east along 7th Street to Lavaca Boulevard, north along Lavaca Boulevard to 11th Street; and
 - (4) Northern boundary: 11th Street.

Source: Ord. 20110210-029; Ord. No. 20180510-018, Pt. 6, 5-21-18.

§ 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.

Source: Ord. 20130822-033.