

ORDINANCE NO. _____

AN ORDINANCE AMENDING CITY CODE CHAPTER 4-18 (*GENERAL PERMITTING STANDARDS*) RELATING TO SOUND ASSESSMENTS FOR RESIDENTIAL USES AND HOTEL-MOTEL USE NEAR OUTDOOR MUSIC VENUES AND PERFORMANCE VENUES; AMENDING SECTION 9-2-41 (*SOUND IMPACT PLANS*) RELATING TO SOUND IMPACT PLANS, OUTDOOR MUSIC VENUES AND NUISANCES; AND CREATING AN OFFENSE.

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

PART 1. City Code Chapter 4-18 (*General Permitting Standards*) is amended to add a new *Article 3 (Sound Assessments)* to read:

ARTICLE 3. SOUND ASSESSMENTS

§ 4-18-40 DEFINITIONS.

In this article,

- (1) accountable official has the same meaning as it does in Section 25-1-21(2) (*Accountable Official*);
- (2) hotel-motel use has the same meaning as it does in Section 25-2-4(37) (*Hotel-Motel*);
- (3) outdoor music venue means a commercial premises that is subject to Subpart B (*Live Music Permits*) of Division 3 of Article 2 of Chapter 9-2 (*Noise and Amplified Sound*);
- (4) performance venue has the same meaning as it does in Section 25-2-4(51) (*Performance Venue*); and
- (5) residential use means a use described in Section 25-2-3 (*Residential Uses Described*).

§ 4-18-41 SOUND ASSESSMENT REQUIRED.

- 27 (A) Except as provided in Subsection (B), a person who applies for a site plan to
28 develop a new residential use or hotel-motel use must obtain a sound assessment
29 that complies with Section 4-18-42 (*Sound Assessment*) if the site is located within:
- 30 (1) 600 feet of one or more outdoor music venues that:
- 31 (a) operates after 10:00 p.m.; and
- 32 (b) is authorized to exceed 70 dBA or 80 dBC; or
- 33 (2) 300 feet of one or more performance venues.
- 34 (B) A sound assessment is not required if the residential use may be developed:
- 35 (1) without a site plan; or
- 36 (2) as a small project under Section 25-5-3 (*Small Projects*).
- 37 (C) When a sound assessment is required, the accountable official may not approve
38 ~~process~~ a site plan application unless the applicant certifies that a sound assessment
39 was conducted. Nothing in this subsection authorizes the accountable official to
40 disapprove a site plan or site plan application because the applicant does not
41 incorporate the sound assessment into the design of the residential or hotel-motel
42 use.

43 **§ 4-18-42 SOUND ASSESSMENT.**

- 44 (A) The purpose of a sound assessment is to:
- 45 (1) improve compatibility between residents, lodging establishments, and
46 music-related businesses; and
- 47 (2) ensure residential and hotel development projects understand the sound
48 levels in the area so they can design and construct their buildings
49 accordingly.
- 50 (B) The director of the Development Services Department must adopt requirements for
51 a sound assessment by rule and in accordance with Chapter 1-2 (*Adoption of*
52 *Rules*).

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PART 2. City Code Section 9-2-41 (*Sound Impact Plan*) is amended to add new Subsections (D) and (E) to read:

- (D) Except as provided in Subsection (E), an outdoor music venue that is operated in compliance with its applicable sound impact plan is presumed not to constitute a nuisance as it concerns noise, sound, and sound equipment.
- (E) If the accountable official issues a notice of intent to modify the sound impact plan, the presumption in Subsection (D) does not apply beginning three months before the notice of intent is issued and ending three months after the sound impact plan is modified.

PART 3. This ordinance takes effect on _____, 2024.

PASSED AND APPROVED

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| | § | Kirk Watson Mayor |

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| APPROVED: _____ | | ATTEST: _____ |
| Deborah Thomas Acting City Attorney | | Myrna Rios City Clerk |