

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 5 (BUSINESS LICENSE AND PERMIT REGULATIONS), CHAPTER 5.03 (AMPLIFIED SOUND PERMIT), ARTICLE I (GENERAL PROVISIONS), SECTION 5.03.010 (COMPLIANCE REQUIRED) TO ADD EXCEPTION FOR EVENTS AT VENUES WITH MORE THAN 7,000 SEATING CAPACITY; SECTION 5.03.020 (DEFINITIONS) TO AMEND DEFINITIONS OF ESTABLISHMENT AND OUTDOOR AREA; ARTICLE II (PERMIT APPLICATION PROCESS), SECTION 5.03.040 (PERMIT APPLICATION PROCESSING) TO INCREASE THE RADIUS FOR PROPERTY OWNER AND NEIGHBORHOOD ASSOCIATION NOTIFICATION REQUIREMENTS; ARTICLE III (DENIAL, SUSPENSION, REVOCATION AND APPEALS) SECTION 5.03.080 (DENIAL) TO INCREASE THE RADIUS FOR RESIDENTIAL PROPERTY OWNERS TO CONTEST A PERMIT; ARTICLE IV (PERMIT STANDARDS), SECTION 5.03.130 (VIOLATION) TO AMEND THE NUMBER OF VIOLATIONS THAT CAN RESULT IN SUSPENSION OR REVOCATION OF PERMIT; ARTICLE VI (VIOLATION, PENALTY), SECTION 5.03.130 (VIOLATION) TO CLARIFY THAT THE CITY MAY SEEK CIVIL ACTION AND PENALTIES OF UP TO \$1,000 PER DAY; THE PENALTY AS PROVIDED IN 5.03.130 OF THE EL PASO CITY CODE.

WHEREAS, City Code Title 5 (business License and Permit Regulations), contains various sections regarding permits for various topics;

WHEREAS, on February 26, 2019 City Council enacted Ordinance 018907 establishing a Sound Amplification Permit; and

WHEREAS, on June 22, 2022, the El Paso City Council directed the hiring of a third-party consultant to further review issues including noise nuisance and the sound amplification permit; and

WHEREAS, from August 2023 to May 2024, twelve city departments including the El Paso Police Department, Code Enforcement, and Planning and Inspections participated in approximately 29 meetings with over 100 stakeholders; and

WHEREAS, on May 21, 2024, the third-party consultant, Responsible Hospitality Institute, presented its report and recommendations to City Council; and

WHEREAS, the RHI report recommends amendments to Chapter 5.03 of the El Paso City Code; and

WHEREAS, on September 24, 2024, the El Paso City Council heard updates on the Sociable City Assessment Action Plan, including recommendations to amend Chapter 5.03 of the El Paso City Code; and

WHEREAS, City Council now desires to amend Title 5 of the City Code in order to make revisions to improve the Sound Amplification Permit function and process.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

SECTION 1. That Title 5 (Business License and Permit Regulations) Chapter 5.03 (Amplified Sound Permit) Article I (General Provisions) Section 5.03.010 (Compliance required) be amended to add subsection C. as follows:

5.03.010 - Compliance required.

C. This chapter shall not apply to sound generated at a scheduled stadium event or an event at a venue with more than 7,000 seating capacity;

SECTION 2. That Title 5 (Business License and Permit Regulations) Chapter 5.03 (Amplified Sound Permit) Article I (General Provisions) Section 5.03.020(A) and Section 5.03.020(E) (Definitions) be amended and replaced as follows:

5.03.020 – Definitions.

- A. “Establishment” means any business entity in the City that utilizes amplification equipment at a non-residential property located within ~~three hundred fifty~~ five hundred feet of a residential property as defined in this chapter, measured from the property line~~center~~ of the ~~outdoor area~~establishment closest to the residential property, for the purpose of emitting sound at any outdoor area on the premises between the hours of 10:00 p.m. and 12:00 a.m.
- E. “Outdoor Area” means any portion of the establishment premises that is not fully enclosed by permanent, solid walls and a roof, ~~and is identified in the sound impact plan~~(including open roll-up-style doors, open windows, or open doors) where sound amplification equipment will be utilized for the enjoyment of establishment customers, includes fixed, non-portable structures used in conjunction with sound amplification equipment, including but not limited to stages, decks, risers, and lighting support structures.

SECTION 3. That Title 5 (Business License and Permit Regulations) Chapter 5.03 (Amplified Sound Permit) Article II (Permit Application Process) Sections 5.03.040(B)(1) and (3) (Permit Application Processing) be amended and replaced as follows:

5.03.040 - Permit Application Processing.

B. Notification.

1. On behalf of the applicant, the City must issue written notice of intent to acquire a permit to any property owner and any neighborhood association within a ~~three hundred fifty five hundred~~ three hundred fifty foot radius, measured from the property line center point of the outdoor area of the establishment. Each notification shall provide recipients with pertinent information to inform the city of the recipients' opportunity to provide comment on the application.

3. On behalf of the applicant, the permit official shall notify every abutting residential property owner and any other residential property owner(s) within a ~~one hundred fiftythree hundred~~ one hundred fifty foot radius, measured from the property line center point of the outdoor area of the establishment, for the purpose of securing a written response from each notified property owner. Each notification shall provide recipients with pertinent information regarding his or her opportunity to contest an application. The written response to an opportunity to contest shall allow a person to submit evidence and specific reasons why the issuance of the permit would be detrimental to the community.

SECTION 4. That Title 5 (Business License and Permit Regulations) Chapter 5.03 (Amplified Sound Permit) Article III (Denial, Suspension, Revocation, and Appeals) Section 5.03.080(B)(5) (Denial) be amended and replaced as follows:

5.03.080 - Denial.

B. The permit official finds:

5. That more than twenty-five percent of the notified residential property owners within ~~one hundred fiftythree hundred~~ one hundred fifty feet of the property line of the establishment outdoor area provide the permit official with a written response contesting the permit;

SECTION 5. That Title 5 (Business License and Permit Regulations) Chapter 5.03 (Amplified Sound Permit) Article VI (Violations; Penalty) Section 5.03.130(C) (Violation) be amended and replaced as follows:

5.03.130 - Violation

- C. The City may suspend or revoke the permit when more than ~~ten-two~~ ten violations of Chapter 9.40 have been documented and citations issued to the permit holder at the establishment to either the establishment owner, employee, or individual in control of the establishment at the time of issuing the citation.

SECTION 6. That Title 5 (Business License and Permit Regulations) Chapter 5.03 (Amplified Sound Permit) Article VI (Violations; Penalty) Section 5.03.130 (Violation) be amended to add Section 5.03.130(E) as follows:

5.03.130(E) – Violation.

E. The city may, in accordance with Chapter 54 of the Texas Local Government Code, bring a civil action against a person violating a provision of this chapter. The civil action may include, but is not limited to, a suit to recover a civil penalty pursuant to Section 54.017 of the Texas Local Government Code not to exceed \$1,000 for each day or portion of a day during which the violation is committed, continued, or permitted.

SECTION 7. Except as herein amended, Title 5 of the El Paso City Code shall remain in full force and effect.

ADOPTED this _____ day of _____, 2024.

THE CITY OF EL PASO:

Oscar Leeser, Mayor

ATTEST:

Laura D. Prine, City Clerk

APPROVED AS TO FORM:

Eric Gutierrez
Senior Assistant City Attorney

APPROVED AS TO CONTENT:

Arthur S. Alvarado, Director
Code Enforcement Bureau,
El Paso Police Department