



Ordinances Amending  
TITLE 9 – Health and  
Safety Noise Nuisance

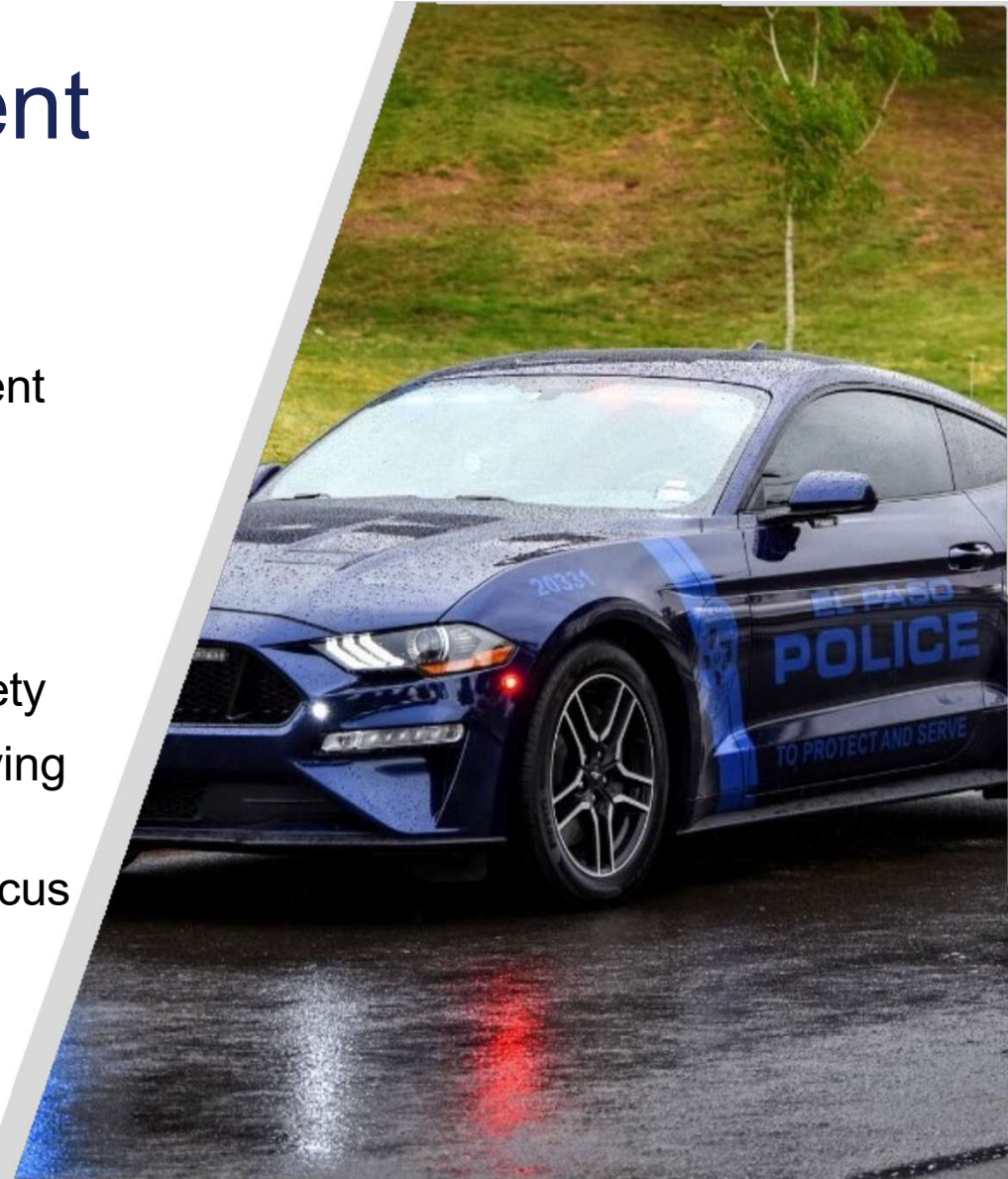
TITLE 5 – Business License and Permit  
Regulations Sound Amplification Permit

GOAL 2 – Set Standard for a Safe & Secure City



# Strategic Goal Alignment

- 2.1 Maintain standing as one of the nation's top safest cities
- 2.2 Strengthen community involvement in resident safety
- 2.3 Increase public safety operational efficiency
- 2.8 Implement effective code enforcement strategies to reduce nuisances, enhance visual appearance and improve overall health and safety
- 6.4 Implement leading-edge practices for achieving quality and performance excellence
- 6.5 Deliver services timely and efficiently with focus on continual improvement



03 / 11 / 2022

# City Hosts Additional Meetings About Proposed Amendments to Noise, Sound Amplification Permit Ordinances

**El Paso, Texas**—The City of El Paso will host four virtual community meetings to discuss the proposed amendments to the Noise Ordinance and the Sound Amplification Permit Ordinance, detailed in municipal codes Title 9 (Health and Safety) and Title 5 (Business License and Permit Regulations).

The public is invited to attend one of the four virtual community meetings listed as follows:

## **THURSDAY, MARCH 17**

Noon to 1:30 p.m.

Virtual: [Microsoft Teams Link](#)

**Phone:** (915) 213-4096; code: 661 650 140#

## **MONDAY, MARCH 21**

5:30 to 7 p.m.

Virtual: [Microsoft Teams Link](#)

**Phone:** (915) 213-4096; code: 482 857 210#

## **WEDNESDAY, MARCH 23**

9 to 10:30 a.m.

Virtual: [Microsoft Teams Link](#)

**Phone:** (915) 213-4096; code: 891 789 084#

## **TUESDAY, MARCH 29**

5:30 to 7 p.m.

Virtual: [Microsoft Teams Link](#)

**Phone:** (915) 213-4096; code: 504 545 226#

The community may also attend a public hearing at 9 a.m. Tuesday, April 26, 2022, at the El Paso City Council meeting, 300 N. Campbell.

# Timeline

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- 2/26/2019
  - Amendments to both chapters passed
  - Floor Amendments passed:
    - Excluding DMD (from Chapter 5 permit)
    - Adding 350 distance requirement from residence (for Chapter 5 permit)
    - Chapter 5 permitting appeal to City Council
  - **Revisit in six months**
- 8/20/19, 9/3/19: **postponed**
- 10/15/19
  - **Proposed amendments:** to extend permit time frame to 2 am with sound impact plan and mitigation equipment installed
  - **Not passed, revisit in six months**
- COVID
- Reopening of businesses

# What we will cover:

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- Current law
- Benchmarking other cities
- Sample of existing data and data gathering processes
- Staff Proposed amendments
- Q&A



# Current Law

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## **EP Code Chapter 9.40 Noise Nuisance** **Amended in 2019**

General noise nuisance

### **Three categories of violations:**

- 1) noise higher than 70 dB between 10 p – 7 a
- 2) reasonable sensibilities standard (added)
- 3) Vibrations

- Violations: max fine of \$500/day

# Current Law

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## EP Code Chapter 5.03 - Amplified Sound Permit

Created in 2019

- Only if **business is within 350 feet of a residence**
- Permit allows for amplified sound up to 70 dB from **10 pm to midnight**
- No outdoor amplified sound after midnight
- Violations: max fine of \$2,000/day

# Texas Cities – Noise Ordinances

City	Max Decibel Level	Location of Reading	Time Restrictions
El Paso (current)	70 dB	Property receiving the noise	10 p – 7 a
El Paso (pre-2019)	60-65 dB for commercial properties	Property producing the noise	10 p – 7 a (65 dB) 7 a – 10 p (60 dB)
Austin	85 dB 70 dB (if property is a restaurant)	Property producing the noise	10 a – 2 a
Dallas	Greater of 49 dB or 5 dB above background (if adjacent to residential); greater of 49-63 dB or 5 dB above background (if not adjacent)	Property producing the noise	10 p
Houston	Nonresidential: 68 dB Residential: 65 dB (day); 58 dB (night)	Property receiving the noise	Enforceable 24/7
San Antonio	Business: 70 dB; residential: 63 dB (day) Business: 63 dB; Residential: 56 dB (night) (Riverwalk District allows 72/80)	Property receiving the noise	10 p



# Texas Cities – Permits for Sound Amp

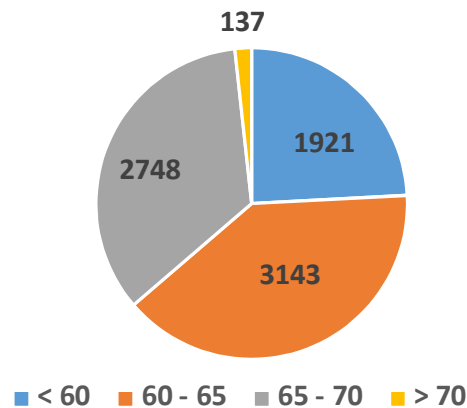
City	Max Decibel Level	Location of Reading	Time Restrictions	Distance from Residential
El Paso (current)	70 dB	Property producing the noise	Permit required 10 p – midnight; no sound amp after midnight	350 ft
Austin	85 dB	At commercial property line	Sun – Thurs: 8 p Fri – Sat: 10 p	600 ft
Dallas	N/A	N/A	N/A	N/A
Houston	75 dB	At nearest receiving property line	Sun – Thurs: 8 a – 10 p; Friday – Sat: 8 am – 11p	Permit required for all businesses playing amp sound
San Antonio	N/A	N/A	N/A	N/A

# “Entertainment Districts” Noise Enforcement

Number of Noise Readings – 4/22/21-1/22/22

Count of Violation				
Command	Code Enforcement	Police	No Violation	Grand Total
Central	17	1	2,108	2,269
Mission Valley	0	0	283	283
Pebble Hills	4	0	3,423	3,143
Westside	38	12	2,061	2,113
Grand Total	59	13	7,875	7,947

Over 70 dB = 1.72%  
 65 to 70 dB = 34.57%  
 60 to 65 dB = 39.54%  
 60 dB or less = 24.17%



Total  
Readings:  
7,949

# “Entertainment Districts” Noise Enforcement

**2021:**

Police Department Commands	# Readings	# Venues	Ave dB	# Violations*
<b>WESTSIDE</b> • 200 Cincinnati	1,625	16	66 dB	50
<b>PEBBLE HILLS</b> • 3000 Zaragoza • 2100 Zaragoza • 1700 Zaragoza • 1400 Zaragoza • 1100 Airway • 1500 G. Dieter • 12000 Tierra Este • 11400 Montana • 10700 Pebble Hills	2,878	31	62 dB	4
<b>CENTRAL</b> • Downtown-DMD	374	13	60 dB	1
<b>CENTRAL</b> • 5 Points	1,544	15	62 dB	17
<b>Total</b>	6,421	75	62.5 dB	72



# Proposed Changes TITLE 9, CHAPTER 9.40 Noise

# Proposed Revisions – Ch. 9.40

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## Three categories of violations:

- Reasonable Sensibilities standard
  - Clarifying violations **can occur at any time of the day** if noise unreasonably disturbs or interferes with the sleep, peace, comfort, or repose of a person of reasonable sensibilities
- Decibel Level
  - Lowering from 70 dB to 65 dB
- Vibration Violations
  - Revising requirement from adjoining properties to affected property.

## Location of Reading

- Revising location from property line of the property receiving the noise to property line of the property producing the noise (consistent for both ordinances)

# Penalties – 9.40.070

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- Class C Citation: max of \$500/day
- Additionally, 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 civil penalties of up to \$1,000/day



# Proposed Revisions – Ch. 9.40

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Proposed Floor Amendment- **NEW ADDITION**

## 9.40.040 - Vibration.

It shall be unlawful for any person to create, maintain or cause any ground or airborne vibration **including bass** which is perceptible without instruments by a person at any point on any affected property **adjoining** ~~the property in which the vibration source is located~~, in such a manner as to unreasonably disturb or interfere with the sleep, peace, comfort and repose of a person of reasonable sensibilities, unless such activity is otherwise regulated under other applicable law. **A decibel level reading shall not be required for the enforcement of this section.**



# TITLE 5, CHAPTER 5.03

## Amplified Sound Permit



# Sound Amplification Permit

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- Any business entity that utilizes amplification equipment at a non-residential property **within 350 feet of a residential property** must get a sound amplification permit
  - Outdoor Area
  - **10:00PM to 12:00AM**
  - 70 Decibels



# Sound Amplification Permits

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- # of businesses with sound amp permit as of 1/20/22: 2
- # of businesses with pending applications: 0
- # of businesses denied: 0

\*\* Since 2019: 12 locations began the application process, 4 expired/not renewed, 2 no applicant follow-up, 2 cancelled by customer, 2 denied, 2 active



## Proposed Revisions – Ch. 5.03

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- Revise definition of "Outdoor Area" to clarify that roll-up style doors, open doors, and windows constitute an outdoor area.
- Lowering decibel level from 70 dB to 65 dB
- Expand location requirement from 350 ft. to 500 ft. from residences.
- Written notice to neighbors expanded to 500 ft. (from 300 ft.); written responses expanded to 300 ft. (from 150 ft.).
- Lower revocation threshold from ten citations to two citations.
- Clarify that the City may seek injunctive relief for violations under the Texas Local Government Code.
- \*\*\*Not applicable to Downtown Management District – no change.



# Sound Amplification Permit Process

Application submitted and reviewed for completeness If incomplete returned to applicant for corrections to applicant	2 days
If complete Routed to GIS planner to develop mailing labels of parcels within 150' and 350' to be notified.	2 days
Site Inspection conducted to verify on-site posting and location of outdoor amplification equipment	2 days
Notification of intent to acquire permit mailed	2 days
30 day response allowance for notified parties	30 days
Review of responses from notified parties	2 days
Permit issuance If less than 25% of residential properties within 150' object – permit issued If more than 25% of residential properties within 150' object – permit denied	1 day
Approximate time for permit issuance/denial	40-45 days

\*The initial permit application fee is \$367.00 and requires yearly renewal with a 125.00 fee.



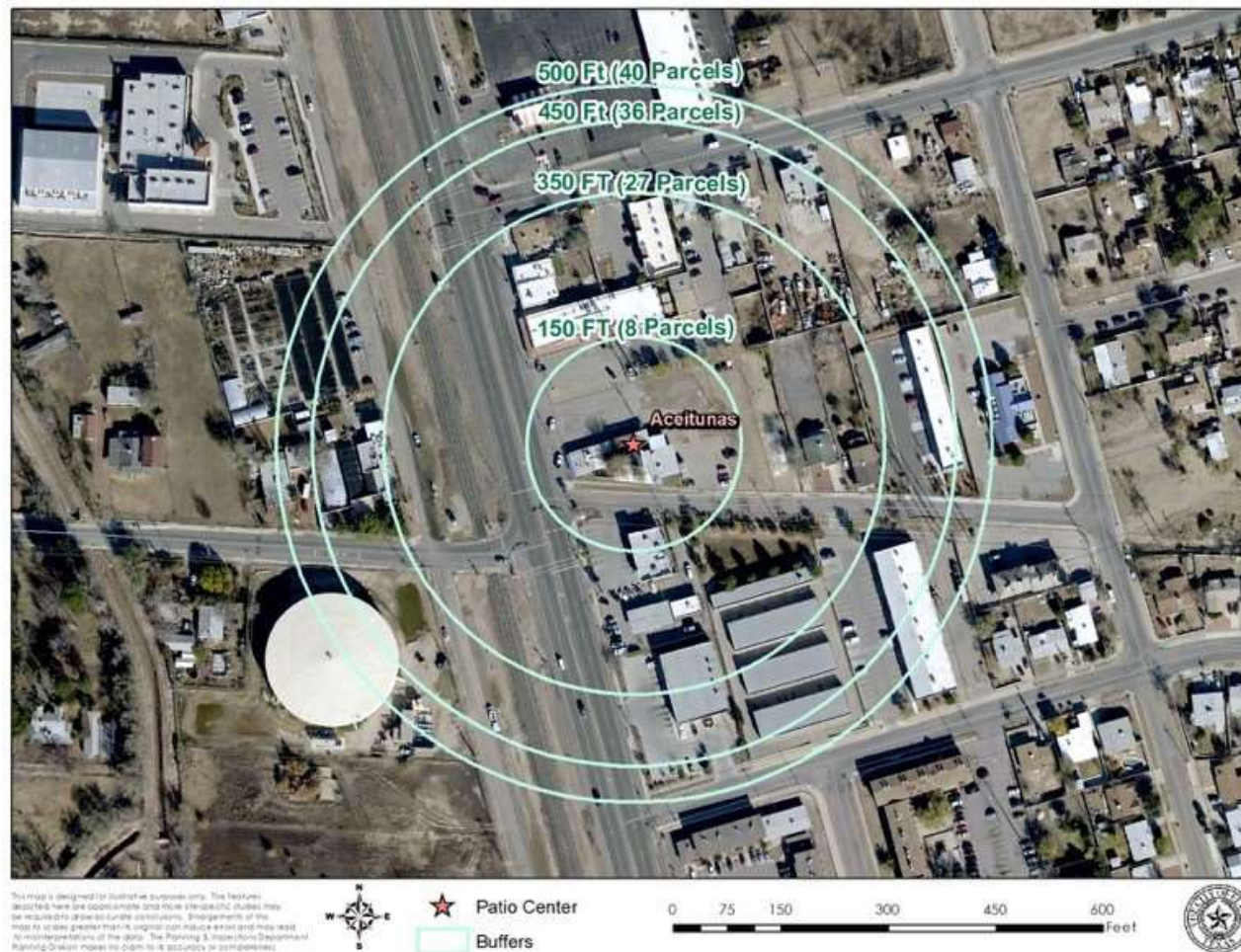
# Establishment Survey

Police Regional Command Area	Outdoor Sound Amp	No Outdoor Sound Amp	Total
Central	50 (11 DMD exempt)	78	128
Mission Valley	8	26	34
West Side	59	113	172
Pebble Hills	88	183	271
Northeast	17	16	33
	<b>222</b>	<b>416</b>	<b>638</b>

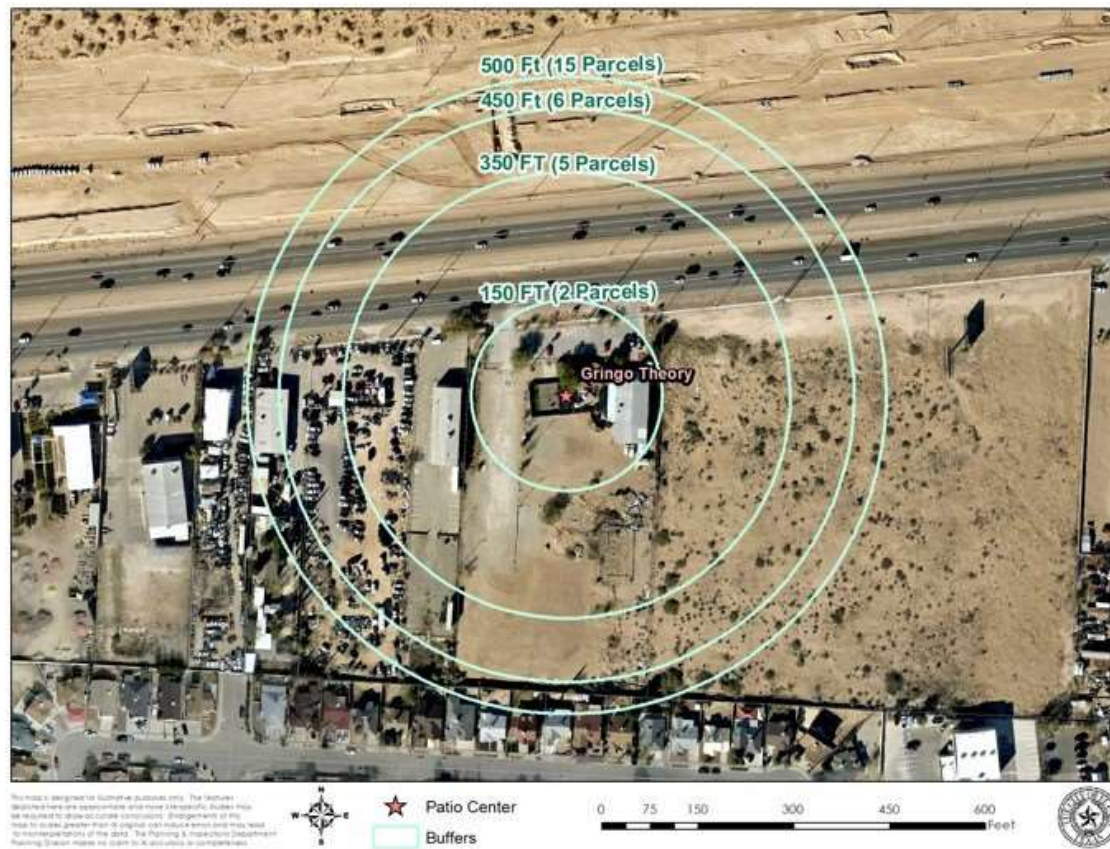
**34 % of establishments have outdoor sound amplification ability**



# Westside Regional Command



# Pebble Hills Regional Command





# Westside Regional Command



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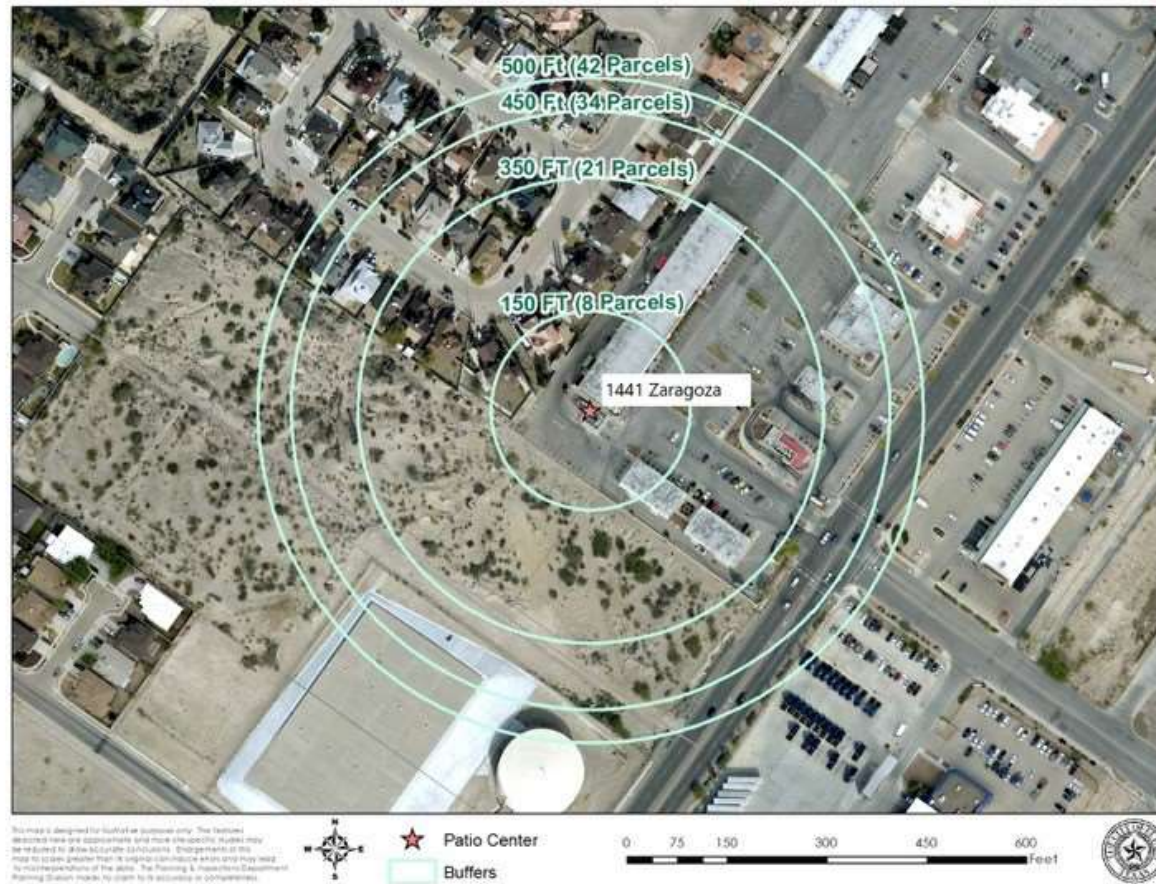


★ Patio Center  
□ Buffers

0 75 150 300 450 600 Feet

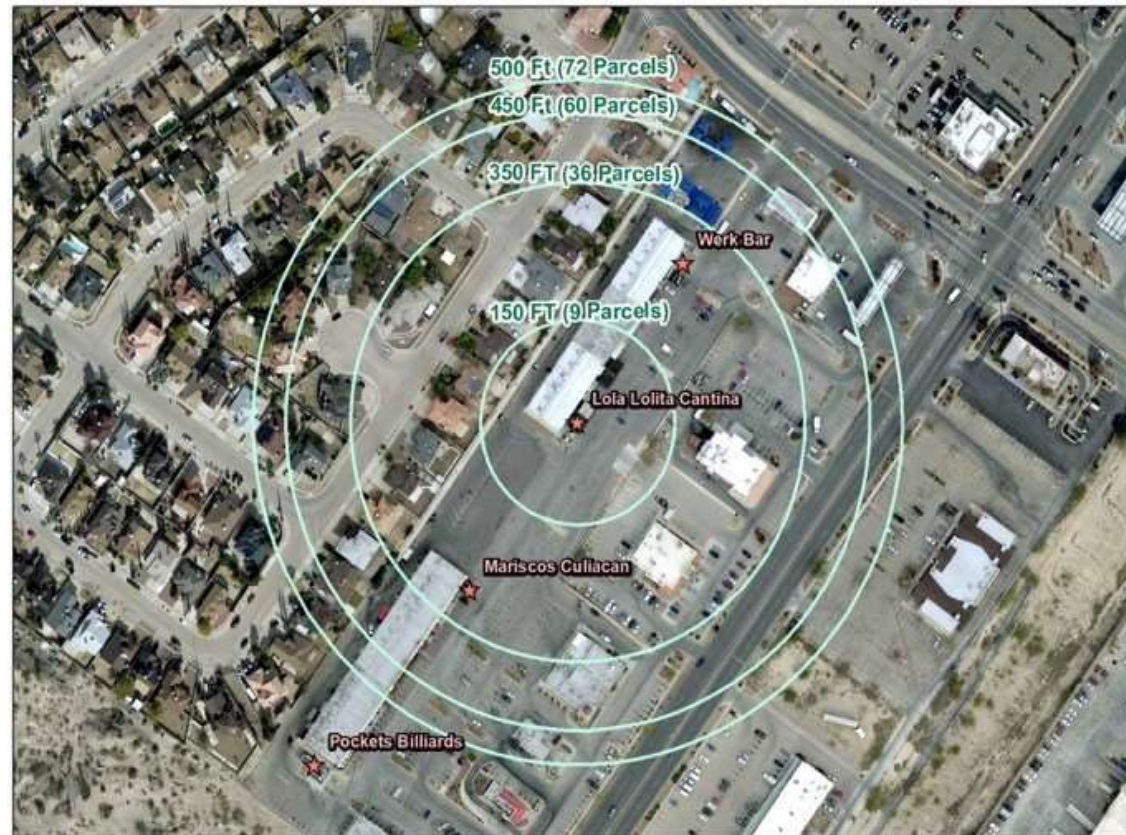


# Pebble Hills Regional Command





# Pebble Hills Regional Command



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★ Patio Center  
□ Buffers

0 75 150 300 450 600 Feet





# Central Regional Command



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★ Patio Center  
□ Buffers

0 75 150 300 450 600 Feet





# City Attorney's Office Prosecutors

# Citizen Complaint Packets

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- Reasonable Sensibilities Cases
- Now available to the public at the CAO website
  - <https://www.elpasotexas.gov/city-attorney/complaint-forms/>
- Videos strongly encouraged
- Identification of violating party and other elements of offense

# Municipal Court Cases

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- Citations/Notices of Violations from Police/Code:92
  - Violations: Max decibel level, no permit, vibrations
  - Plea/paid fine: 4
  - Reset: 59
  - Warrants: 28
  - Dismiss: 1
- City Attorney's Office cases under Reasonable Sensibilities standard in 2021-Feb 2022: 39
  - 31 Accepted
  - 6 reset
  - 25 awaiting first setting
  - 8 rejected

Questions?



## Community Meeting Feedback



# Community Suggestions (Business)-Noise

<b>Downtown Management District will oppose changes/seek exemption</b>	<b>Make no changes to ordinances</b>
<b>Texas Restaurant Association- El Paso Chapter will oppose any changes</b>	<b>Prohibit repeated complaints filed by a few residents</b>
<b>In Cincinnati District- add outdoor decibels as staff collected reading are incorrect</b>	<b>Exempt Downtown from any regulations, align with Austin allowable levels</b>
<b>Revise proposal to focus only on bad actors/repeat offenders</b>	<b>Data collected by staff does not support a change</b>

# Community Suggestions (Resident)-Noise

<b>Changes to ordinances will not address greater concerns- zoning of bars near residential</b>	<b>Police should have the ability to order a business to turn off music immediately when found in violation</b>
<b>Adopt Austin noise ordinance (more restrictive in residential areas, vibrations, order to turn off music?)</b>	<b>Shut down repeat offender businesses</b>
<b>Lower decibel levels to 50 (levels before 2019 changes?)</b>	<b>Prohibit any noise emitting from locations near residential areas</b>
<b>Consider restricting outdoor music after 10pm</b>	<b>Can the citation be issued to the DJ's as well as the establishment owner?</b>

# Community Suggestions (Business)-Permit

<b>DMD will request revision to include boundaries amended January 2020</b>	<b>Eliminate Sound Amplification Permit Requirements</b>
<b>Provide a sound engineer and other financial assistance to businesses to assist in achieving compliance</b>	<b>Eliminate cost/fees associated with acquiring a permit or penalties, as businesses are in recovery</b>
<b>Develop process to include requirements/limits at issuance of the certificate of occupancy</b>	<b>Why not consider extending the timeframe from midnight to 2 am?</b>
<b>Provide a list of specific locations committing these violations- focus on these locations</b>	<b>Changes will potentially impact all business, not just those discussed requiring permit</b>

# Community Suggestions (Resident)-Permit

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**Expand Voice of Resident to 500 feet vs 350 feet for Sound Amplification Permit Applications**

**Require sound proofing before any permits for occupancy or sound are issued (\*Building Code)**

**Can restrictions be placed, regarding language (vulgar lyrics) projected by establishments?**

**Develop process to include requirements/limits at issuance of the certificate of occupancy**

**Renters should have a voice in the application process not just the owner**

## Community Suggestions (public meetings)-General

<b>What is the status of the creation of entertainment districts? Hospitality Industry associations should be planning committee members.</b>	<b>What assurance do we have that the ordinances will not need to be revised again in the near future</b>
<b>Develop more “Entertainment Districts”, allowing for relaxed/targeted regulation standard</b>	<b>We are discussing noise regulations now, will lighting regulations be next? Where does this end?</b>
<b>Focus on Cincinnati Entertainment District restriction</b>	<b>Have you considered damages to Businesses?</b> Economic Development Department should be in the discussion
<b>Consider shutting down entertainment venues at mid-night</b>	<b>Business and Residents should work together to strengthen neighborhood relations</b>
<b>Has a study been conducted of truly affected property owners?</b>	

## Next Steps- Entertainment Districts CFT: Engage third party consultant



### Overview:

- In-depth analysis of city's strengths, challenges, and opportunities
- Observe nightlife firsthand through district tours
  - Create focus groups and background research
- Help to build bridges of trust and communication between key stakeholders to ensure diverse voices are heard

### Action Plan:

- Priorities established through interviews
- Build consensus on a course of action using best practice measures

### Implementation:

- Final phase includes presentation of the comprehensive summary and action plan
- Findings presented to key decision-makers for citywide buy-in and support
- Final report will serve as a blueprint to implement the action plan
  - Final on-site meeting will review strategy for implementation, including timeline and resources required

