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APPROVED AS TO FORM AND LEGALITY

INTRODUCED BY COUNCIL MEMBER TREVA REID AND THE OFFICE OF
THE CITY ADMINISTRATOR

FILED
OAKLAND

Patrick Bearz
CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. 13780 C.M.S.

ORDINANCE AMENDING OAKLAND MUNICIPAL CODE CHAPTER 12.56 (SOUND AMPLIFICATION EQUIPMENT) TO ALLOW THE CITY OF OAKLAND TO ISSUE UP TO TEN PERMITS PER CALENDAR YEAR FOR AMPLIFIED SOUND UNTIL ELEVEN O'CLOCK (11:00) P.M. IN THE OAKLAND COLISEUM FOR A THREE-YEAR PILOT PERIOD (2024-2026); AND ADOPTING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

WHEREAS, Oakland Municipal Code (O.M.C.) Chapter 12.56 regulates the use of amplified sound in the City of Oakland (City); and

WHEREAS, O.M.C. Chapter 12.56 requires a permit to operate sound amplifying equipment when the sound produced can be heard outdoors by a person from fifty (50) or more feet from the source of the amplification; and

WHEREAS, O.M.C. Section 12.56.030 prohibits the issuance of an amplified sound permit between ten o'clock (10:00) p.m. and nine-thirty (9:30) a.m.; and

WHEREAS, on March 1, 2020, the Alameda County Public Health Department, and on March 4, 2020, Governor Gavin Newsom, declared local and state public health emergencies, respectively, due to the spread of COVID-19 locally and within the state, pursuant to Health & Safety Code section 101080 and Government Code section 8625; and

WHEREAS, on March 9, 2020, the City Administrator in their capacity as the Director of the Emergency Operations Center (EOC), issued a proclamation of local emergency due to the spread of COVID-19 in Oakland, pursuant to their power under O.M.C. section 8.50.050(C) to proclaim a local emergency provided that the local emergency proclamation shall remain in effect only if the City Council confirms the existence of the emergency within seven days; and

WHEREAS, on March 12, 2020, the City Council passed Resolution No. 88075 C.M.S. confirming the existence of the local emergency proclaimed by the City Administrator; and

WHEREAS, during the initial phases of the COVID-19 pandemic, federal, state, and local public health officials all encouraged activities to take place outdoors wherever possible to maximize air circulation and minimize the spread of COVID-19 infections; and

WHEREAS, in 2021 the City observed an increase in demand for outdoor performances during the COVID-19 pandemic and anticipated an ongoing demand for such events as the COVID-19 pandemic continues; and

WHEREAS, depending on the size and location of live events occurring in the City, event promoters may need City approval to hold their events, including but not limited to a Special Event permit and/or a Sound Amplification permit pursuant to O.M.C. Chapters 9.52 (Chapter 9.52) and 12.56 (Chapter 12.56) respectively; and

WHEREAS, in order to mitigate the risk of COVID-19 transmission and encourage outdoor gatherings instead of indoor gatherings, the City sought to accommodate the scheduling of live events in permissible outdoor settings where a sound permit application may be requested for an event that will end after 10:00 p.m.; and

WHEREAS, on September 30, 2021, the City Administrator adopted COVID-19 Emergency Order No. 11 to suspend O.M.C. Section 12.56.030(A), which prohibits the issuance of sound amplification permits intended to reach individuals outdoors between 10:00 p.m. and 9:30 a.m.; and

WHEREAS, under the authority of Emergency Order No. 11, the Oakland-Alameda County Coliseum Authority held three events past 10:00 p.m. and none of the events resulted in noise complaints to the City's Call Center of Oakland Police Department; and

WHEREAS, the Oakland-Alameda County Coliseum Authority now requests amending O.M.C. Chapter 12.56 to continue to allow amplified sound outdoors past 10:00 p.m. to foster economic development by supporting events at the Coliseum; and

WHEREAS, the Oakland-Alameda County Coliseum Authority's request is limited to ten events per year with amplified sound until eleven o'clock (11:00) p.m. in the stadium and the request is further limited to a period of three (3) years to provide time to evaluate whether to make this policy permanent or make any necessary adjustments.; and

WHEREAS, acceding to the aforementioned request will support economic development in a measured and limited manner, in compliance with the California Environmental Quality Act (CEQA), that will minimize any impact on the surrounding community; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The City Council finds the foregoing recitals to be true and correct and hereby incorporates such findings into this ordinance.

SECTION 2. Purpose and Intent. The purpose and intent of this Ordinance is to allow the City to issue permits to operate sound amplification equipment until 11:00 p.m. inside the Coliseum in the Oakland-Alameda County Coliseum Complex for up to ten events per year for three (3) years until January 1, 2027.

SECTION 3. Amendment of Section 12.56.030 of Oakland Municipal Code Chapter 12.56 (Sound Amplification Equipment). O.M.C. section 12.56.030 (Permit Issuance Conditions) is amended as set forth below (additions are shown as double underline and deletions are shown as ~~strikethrough~~):

Section 12.56.030. Permit issuance conditions.

No permit shall issue to permit operation of sound amplification equipment ~~in a manner other than that prescribed by this chapter~~ if:

- A. The equipment is to be used or operated out-of-doors or indoors but used or operated to reach persons out-of-doors between the hours of ten p.m. and nine-thirty a.m.
- B. The operation of such equipment is to be in those areas of the city which are designated as residential districts by the zoning ordinance of the city.
- C. The operation of such equipment is to be in the business district of the city where such use or operation is so loud as to disturb the operations or meetings of businesses, a governmental entity or any public hearing conducted by such governmental entity or at a location where such use or operation would impede the flow of pedestrian or vehicular traffic to such an extent that it would create a dangerous traffic situation or would constitute a detriment to traffic safety.
- D. Use or operation of the sound amplification equipment would interfere with another permit or event previously granted.
- E. Notwithstanding subsections A-D, until January 1, 2027, the City may issue permits for events inside the Coliseum in the Oakland-Alameda County Coliseum Complex as follows:
 - 1. The City may issue up to ten sound permits per calendar year for amplified sound until eleven o'clock (11:00) p.m.
 - 2. The City may condition the issuance of such permits on the applicant's agreement to fund no less than one sound study by a neutral third party that analyzes amplified sound at the Coliseum Complex and its impact on surrounding neighborhoods. The sound study shall also identify strategies to mitigate excessive noise on surrounding neighborhoods, including imposing feasible and industry standard decibel limits on the sound amplification equipment.

SECTION 4. California Environmental Quality Act. This action is exempt from CEQA pursuant to the following CEQA Guidelines sections given the very limited, de minimus, extension of permitted time and the existing baseline permit requirements applicable to the site: Section

15162 and 15163 (no further environmental review required); Section 15060(c)(2) (no direct or reasonably foreseeable indirect physical change in the environment); Section 15061(b)(3) (no significant effect on the environment); Section 15183 (projects consistent with a community plan, general plan, or zoning), Section 15301 (existing facilities), and Section 15309 (inspections), each of which provides a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance.

SECTION 5. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

SECTION 6. Effective Date. This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

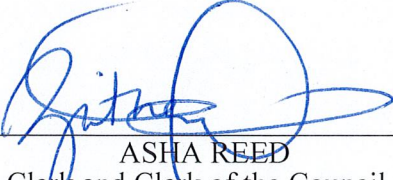
IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE: **FEB 06 2024**

AYES – FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, AND
PRESIDENT FORTUNATO BAS **-8**

NOES **7**
ABSENT **1**
ABSTENTION **0**

Introduction Date
JAN 16 2024

ATTEST: 
ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California

Date of Attestation: **2/9/2024**

NOTICE AND DIGEST

ORDINANCE AMENDING OAKLAND MUNICIPAL CODE CHAPTER 12.56 (SOUND AMPLIFICATION EQUIPMENT) TO ALLOW THE CITY OF OAKLAND TO ISSUE UP TO TEN PERMITS PER CALENDAR YEAR FOR AMPLIFIED SOUND UNTIL ELEVEN O’CLOCK (11:00) P.M. IN THE OAKLAND COLISEUM FOR A THREE-YEAR PILOT PERIOD (2024-2026); AND ADOPTING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

Existing law prohibits the City from issuing permits to operate sound amplification equipment if the equipment is to be used or operated to reach persons out-of-doors between the hours of 10:00 p.m. and 9:30 a.m. This ordinance would allow the City of Oakland to issue permits to operate sound amplification equipment until 11:00 p.m. inside the Coliseum in the Oakland-Alameda County Coliseum Complex for up to ten events per year for three years until January 1, 2027. In making this ordinance change, the City is adopting appropriate California Environmental Quality Act exemption findings.