

1 Introduced by Council Member Boyer:
2
3

4 **ORDINANCE 2013-**

5 AN ORDINANCE AMENDING CHAPTER 368 (NOISE
6 CONTROL), *ORDINANCE CODE*, PART I (GENERAL
7 PROVISIONS) TO CREATE NEW SECTION 368.109,
8 ADOPTING INTERIM RULES FOR THE ADMINISTRATION
9 OF SPECIAL EVENTS OVER 500 PEOPLE AT
10 METROPOLITAN PARK; APPROVING A MODIFIED
11 LICENSE AGREEMENT FOR SPECIAL EVENTS AT
12 METROPOLITAN PARK; PROVIDING FOR SUNSETTING OF
13 SAID INTERIM RULES AND LICENSE AGREEMENT ON
14 SEPTEMBER 30, 2014; AND PROVIDING AN EFFECTIVE
15 DATE.
16

17 **WHEREAS**, Metropolitan Park, with its size and beautiful
18 downtown riverfront location, has the potential to be one of
19 Jacksonville's greatest civic assets; and

20 **WHEREAS**, although it has long been a destination venue for
21 concerts, festivals and other civic gatherings, events in
22 Metropolitan Park have also long been the source of noise and
23 vibration complaints from residents in nearby neighborhoods; and

24 **WHEREAS**, such complaints have recently resurfaced as the
25 duration and nature of events produced in the park has shifted,
26 leading to the appointment of a City Council Ad Hoc Committee on
27 Metropolitan and Urban Parks to study the situation and make
28 recommendations for remedial action; and

29 **WHEREAS**, the Ad Hoc Committee has met over the course of
30 several months and taken testimony from a variety of experts on the
31 subject of sound production, measurement, regulation and control,

1 and believes that several types of remedial actions show promise to
2 reduce or even eliminate the undesirable effects of activities at
3 Metropolitan Park on nearby neighborhoods; and

4 **WHEREAS**, by means of this ordinance the Ad Hoc Committee
5 proposes several temporary regulations to mitigate undesirable
6 sound impacts from events at Metropolitan Park until further
7 studies can be performed and a final plan for permanent
8 improvements to Metropolitan Park can be developed and adopted; and

9 Whereas, the adoption of this ordinance will allow the booking
10 of events for the upcoming year by providing artists and promoters
11 with certainty and removing the threat of noise citations, and will
12 also provide nearby residents reasonable protection from intrusive
13 and offensive violations of our City's noise ordinance; and

14 **WHEREAS**, the Ad Hoc Committee has recommended that the Council
15 adopt Interim Rules for Musical Events at Metropolitan Park and a
16 modified License Agreement for Metropolitan Park consistent with
17 those Interim Rules; now therefore

18 **BE IT ORDAINED** by the Council of the City of Jacksonville:

19 **Section 1. Creating Section 368.109.** Section 368.109
20 (Special Noise Standards for Metropolitan Park), Part 1 (General
21 Provisions), Chapter 368 (Noise Control), *Ordinance Code*, is hereby
22 created to read as follows:

23 **CHAPTER 368. NOISE CONTROL.**

24 * * *

25 **PART 1. GENERAL PROVISIONS.**

26 * * *

27 **Section 368.109. Temporary Noise Standards for Special**
28 **Events at Metropolitan Park.** For any entertainment event, concert
29 or special event held at Metropolitan Park in which it is
30 anticipated that 500 or more individuals will attend the event and
31 amplified sound will be utilized, a Metropolitan Park License

1 Agreement (the "License Agreement") shall be executed between the
2 City and the party requesting use of Metropolitan Park (the
3 "Applicant") for the event (the "Event"). The following
4 requirements for sound control shall apply to such Events and
5 shall be incorporated within the executed License Agreement between
6 the parties:

7 "Applicant (including all artists, performers, entertainers, sound
8 technicians, employees, and subcontractors of Applicant, and any
9 others participating in production of the Event) shall comply and
10 ensure compliance with the provisions during the Event Duration:

11 ~~(a) The hours of event production utilizing amplified~~

12 (a) The hours of event production and sound checks

13 utilizing amplified sound in the Park ("Permitted
14 Hours") is restricted to:

15 1. Friday - 12 p.m. to 11 p.m.

16 2. Saturday - 11 a.m. to 11 p.m.

17 ~~3. Sunday - 12 p.m. to 9 p.m. (unless prior to a~~

18 3. 4. Sunday - 12 p.m. to 9 p.m. (unless prior to a

19 Monday which is a holiday in which case the
20 permitted hours are from 11 a.m. to 11 p.m.)

21 4. 5. Weekday events, other than Holiday events, are
22 12 p.m. to 10 p.m.

23 5. 6. No soundSound checks shall begin no earlier
24 than the later of 9 a.m. on the day of the
25 scheduled Event; or four (4) hours prior to the
26 scheduled beginning time on each day of an Event.

27 (b) The maximum allowable sound level, as measured no
28 more than 100 feet perpendicular from the stage at
29 the sound board, shall not exceed the following
30 Broadband and Octave Bands levels limits during the
31 applicable time frames:

1 Time: Permitted hours before 10 p.m.

2
3 Broadband, dB (A) 105

4 Octave Band dB

5 31.5 95

6 63 110

7 125 100

8 250 95 85

9 Time: Permitted Hours after 10 p.m.

10 Broadband, dB (A) ~~105~~ 95

11 Octave Band dB

12 31.5 ~~95~~ 85

13 63 ~~110~~ 100

14 125 ~~100~~ 90

15 250 ~~95~~ 85

16
17 Time: All non- permitted hours

18 Normal provisions of Chapter 368, Ordinance Code and
19 EPB Rule 4 apply

20
21 If Applicant complies with the sound level
22 restrictions above during the Permitted Hours,
23 Applicant shall not be liable for any offsite
24 decibel level noise exceedance pursuant to Chapter
25 368, *Ordinance Code*, or Environmental Protection
26 Board Rule 4 during the stated time periods.

27 (c) Alternately, in lieu of the restrictions on
28 Broadband and Octave Band sound levels set forth in
29 subsection (a), an Applicant may exceed these limits
30 provided that Applicant utilizes an electro-
31 acoustical "steering technique" to redirect sound

1 waves away from the St. Johns River. If electing to
2 utilize such technique, Applicant shall comply at
3 all times with the offsite sound level limitations
4 set forth in Chapter 368, *Ordinance Code*, and
5 Environmental Protection Board Rule 4 and shall be
6 liable for any offsite violation thereof.

7 (d) Applicant shall be responsible for the sound
8 monitoring costs associated with the Environmental
9 Quality Division staffing and monitoring of the
10 Event.

11 (e) The Event shall occur no longer than 16 hours a day,
12 including time for sound check.

13 (f) At the time that Applicant submits an executed
14 license agreement, he or she shall also submit a
15 certified check, made payable to the City of
16 Jacksonville for \$10,000.00 as a Noise Pollution
17 Compliance Fee. The certified check shall be
18 deposited into a non-interest bearing escrow account
19 until the Event is held. Alternately, a letter of
20 credit or surety bond be presented to Special Events
21 at least ten (10) business days prior to the Event
22 as a deposit for the Noise Pollution Compliance Fee.

23 If no violations of subsections (a) or (b) are
24 recorded by the Environmental Quality Division, the
25 Noise Pollution Compliance Fee shall be returned to
26 the Applicant within ten (10) business days after
27 the Event.

28
29 However, if the Environmental Quality Division
30 measures onsite violations under subsection 3(a)
31 above, or offsite violations under subsection 3(b)

1 above, the following penalties will be deducted from
2 the Noise Pollution Compliance Fee:

<u>Violation</u>	<u>Penalty</u>
3 1 st	Warning
4 2 nd	\$1,000.00
5 3 rd	\$3,000.00
6 4 th	\$3,000.00
7 5 th	\$3,000.00

8
9 Each violation is cumulative so that if a 5th
10 violation occurs, the total penalty assessed shall
11 be \$10,000.00. If the City (through the
12 Environmental Quality Division monitoring staff)
13 records more than five (5) violations during an
14 event, the City shall have the right to "pull the
15 plug" and the Event shall terminate. For purposes
16 of establishing violations of Environmental
17 Protection Board Rule 4, Environmental Quality
18 Division monitoring staff shall allow no less than
19 three (3) minutes between recorded violations.

20 (g) No more than two (2) additional or temporary stages
21 will be permitted for the Event. The additional
22 temporary stages shall be set to face away from the
23 St. Johns River. The location and arrangement of the
24 stages and sound systems shall be in accordance with
25 the Stage Configuration Map attached hereto as
26 **Exhibit 2.** Sound attenuation blankets or sound
27 walls shall be erected at the rear of any temporary
28 stages. Such temporary stage installations shall
29 be installed in such a manner so as to minimize the
30 noise impact on surrounding residential properties."

1 All of the foregoing terms shall be included in each
2 License Agreement entered into and may not be waived or altered by
3 City staff.

4 To the extent that the foregoing conflicts with other
5 provisions of Chapter 368, *Ordinance Code*, or Environmental
6 Protection Board Rule 4, the provisions of this section shall
7 govern, supersede and control any inconsistent provisions of
8 Chapter 368, *Ordinance Code*, or Environmental Protection Board Rule
9 4, as to any entertainment, concert or special event held at
10 Metropolitan Park in which it is anticipated that 500 or more
11 individuals will attend and amplified sound will be utilized. This
12 section shall sunset, be repealed, and be of no further effect, on
13 or before September 30, 2014, unless extended in subsequent
14 legislation.

15 **Section 2. Definition of a Ticketed Event.** A "Ticketed
16 Event" is defined as any event where general admission is charged
17 and use of the entire Metropolitan Park property is restricted for
18 the Event. For purposes of defining "12 Ticketed Events" as
19 referenced in Section 191.202, Ordinance Code, Special Events shall
20 not grant licenses:

21 (a) For more than 12 individual Ticketed Events
22 annually;

23 (b) For any Event that utilizes amplified sound to
24 occur for more than two (2) consecutive days or a total
25 of 32 hours of permitted amplified sound (no more than 24
26 hours of Event time plus not more than 4 hours each for
27 sound checks;

1 (c) For more than 144 cumulative hours annually; or

2 (d) For more than two (2) multi-day Ticketed Events

3 **Section 3. Approval of Modified Metropolitan Park License**

4 **Agreement.** The City of Jacksonville hereby approves the modified
5 template for the Metropolitan Park License Agreement, attached
6 hereto as **Exhibit 1** and incorporated herein by reference. The
7 License Agreement at **Exhibit 1** modifies the requirements and
8 conditions of use as related to amplified sound at Metropolitan
9 Park. In addition to the permitting requirements under Chapter
10 190, *Ordinance Code*, all applicants seeking a permit for an event
11 with more than 500 people estimated in attendance and involving
12 amplified sound must enter into a License Agreement consistent with
13 the template set forth in **Exhibit 1**.

14 **Section 3-4. Adoption of Interim Rules for**
15 **Administration**

16 **and Governance of Metropolitan Park.** The City of Jacksonville
17 hereby adopts the Interim Rules for Administration and Governance
18 of Metropolitan Park, attached hereto as **Exhibit 2** and incorporated
19 herein by reference. These interim rules represent legislative
20 policy direction to the City Staff are intended to assist the City
21 administration, departments and employees in best practices as to
22 the operational procedures and management of Metropolitan Park.

23 **Section 4-5. Sunset.** Sections 1, 2 and 3 of this
24 ordinance, providing for a new section 368.109, *Ordinance Code*,
25 providing for approval of a modified license agreement for special
26 events with amplified sound and anticipated over 500 people in
27 attendance at Metropolitan Park, and providing for adoption of
28 interim rules for the City's administration and governance of
29 events at Metropolitan Park shall sunset, be repealed, and be of no
30 further effect, on or before September 30, 2014, unless extended in

1 subsequent legislation.

2 **Section 5-6.** **Effective Date.** This Ordinance shall
3 become effective upon signature by the Mayor or upon becoming
4 effective without the Mayor's signature.
5

6 Form Approved:
7
8

9 Office of General Counsel

10 Legislation Prepared By: Paige Hobbs Johnston

11 G:\Gov't Operations\PJohnston\Metro Park\Metro Park Ad Hoc Committee ~~Interim Rules Lie Agt~~

12 ~~7.24.13 (Final)~~ Legislation 8.28.13 Rev.doc

13
14

