

1 Council Member Boyer offers the first substitute to 2013-676:

2
3 Introduced by Council Member Lee, Boyer, Gaffney, Gulliford and
4 Redman and amended by the Public Health and Safety Committee:

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7 **ORDINANCE 2013-676**

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

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

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

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

1 **WHEREAS**, the Ad Hoc Committee has met over the course of
2 several months and taken testimony from a variety of experts on the
3 subject of sound production, measurement, regulation and control,
4 and believes that several types of remedial actions show promise to
5 reduce or even eliminate the undesirable effects of activities at
6 Metropolitan Park on nearby neighborhoods; and

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

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

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

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

22 **Section 1. Creating Section 368.109.** Section 368.109
23 (~~Special Noise Standards for Metropolitan Park~~) (~~Temporary Noise~~
24 ~~Standards for Special Events at Metropolitan Park~~), Part 1 (General
25 Provisions), Chapter 368 (Noise Control), *Ordinance Code*, is hereby
26 created to read as follows:

27 **CHAPTER 368. NOISE CONTROL.**

28 * * *

29 **PART 1. GENERAL PROVISIONS.**

30 * * *

1 **Section 368.109. Temporary Noise Standards for Special**
2 **Events at Metropolitan Park.** For any entertainment event, concert
3 or special event held at Metropolitan Park in which it is
4 anticipated that 500 or more individuals will attend the event and
5 amplified sound will be utilized, a Metropolitan Park License
6 Agreement (the "License Agreement") shall be executed between the
7 City and the party requesting use of Metropolitan Park (the
8 "Applicant") for the event (the "Event"). The following
9 requirements for sound control shall apply to such Events and
10 shall be incorporated within the executed License Agreement between
11 the parties:

12 "This paragraph applies to all applicants of Ticketed Events (an
13 event in which general admission is charged and use of the entire
14 Metropolitan Park property is restricted for the Event) and those
15 applicants of Non-Ticketed Events (event with no general admission
16 and open to the public or an event that has an admission fee but is
17 restricted to a portion of the Metropolitan Park property) who have
18 elected to utilize the sound waiver for production of musical
19 events in which the noise decibel level is exceeded pursuant to
20 Chapter 368, Ordinance Code, or Environmental Protection Board Rule
21 4. Applicant (including all artists, performers, entertainers,
22 sound technicians, employees, and subcontractors of Applicant, and
23 any others participating in production of the Event) shall comply
24 and ensure compliance with the following provisions during the
25 Event:

26 (a) The hours of event production and sound checks
27 utilizing amplified sound in the Park ("Permitted
28 Hours") is restricted to:

- 29 1. Friday - 12 p.m. to 11 p.m.
- 30 2. Saturday - 11 a.m. to 11 p.m.

1 3. Sunday - 12 p.m. to 10 p.m. (unless prior to a
2 Monday which is a holiday in which case the
3 permitted hours are from 11 a.m. to 11 p.m.)

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

6 5. Sound checks shall begin not earlier than the
7 later of 9 a.m. on the day of the scheduled
8 Event or four (4) hours prior to the scheduled
9 beginning time on each day of an Event.

10 6. If weather conditions delay or disrupt the Event,
11 the Permitted Hours may be extended up to 30
12 minutes beyond the end times stated above.

13 b) The Applicant shall take all reasonable
14 measures to ensure that the maximum sound level as
15 measured not more than 100 feet perpendicular from
16 the stage at the soundboard will be optimized so as
17 not exceed the following broadband level limits
18 during the Permitted Hours of the Event:

19 Sound Pressure Level (SPL) 105 dB(A).

20 Reasonable steps must include the following
21 limiters:

22 1. Sub woofers shall be configured in a Cardioid
23 Bass Array with 70% rejection to the rear and
24 extreme sides;

25 2. Main sound shall be configured in 90 degree
26 horizontal pattern control with 60% rejection to
27 rear and extreme sides;

28 3. Vertical directivity shall be configured to
29 contain sound to highest reasonable degree possible

1 given venue topography as determined by experienced
2 sound technician;

3 4. Applicant shall employ at all times during the
4 Event Permitted Hours a trained and qualified sound
5 specialist to monitor and maintain the SPL 105 dB(A)
6 system limits;

7 5. Speaker setup to use line array to provide
8 maximum pattern control. Out fill and rear firing
9 speakers are not permissible.

10 If Applicant complies with the above sound level
11 controls during the Permitted Hours, then,
12 notwithstanding anything else contained herein,
13 Applicant shall not be liable for any on or off-site
14 decibel level noise exceedance pursuant to Chapter
15 368, *Ordinance Code*, or Environmental Protection
16 Board Rule 4, during the Event Permitted Hours.

17 (c) Alternatively, in the event Applicant elects
18 not to implement one or more of the required
19 limiters set forth in (b) above, the Applicant may
20 elect to proceed under this subparagraph (c). In
21 such event, the Applicant shall assume
22 responsibility for compliance with a maximum
23 allowable Broadband sound level of 105 db(a)
24 measured at no more than 100 feet perpendicular from
25 the stage at the soundboard. In the event
26 Environmental Quality Division ("EQD") staff record
27 a measurement in excess of 105bd(a) at the
28 soundboard, additional readings shall be taken not
29 closer than three minutes apart, and only in the
30 event three consecutive readings in excess of

1 105db(a) are recorded shall such exceedance
 2 constitute a violation. Background noise, crowd
 3 noise, and transient off-site noise shall be taken
 4 into consideration and readings shall be taken at
 5 times so as to avoid distortion of any reading by
 6 such. If Applicant complies with the sound level
 7 restrictions above during the Permitted Hours,
 8 Applicant shall not be liable for any offsite
 9 decibel level noise exceedance pursuant to Chapter
 10 368, *Ordinance Code*, or Environmental Protection
 11 Board Rule 4, during the stated time periods.

12 ~~The maximum allowable sound level, as measured no more~~
 13 ~~than 100 feet perpendicular from the stage at the~~
 14 ~~sound board, shall not exceed the following~~
 15 ~~Broadband and Octave Bands levels limits during the~~
 16 ~~applicable time frames:~~

17 ~~Time: _____ Permitted hours before 10 p.m.~~

18 _____

Broadband, dB (A)	105
Octave Band Hz	dB (A)
31.5	95
63	110
125	100
250	95

25 ~~Time: _____ Permitted Hours after 10 p.m.~~

Broadband, dB (A)	95
Octave Band Hz	dB (A)
31.5	85
63	100
125	90
250	85

1
2 Time:

3 ~~(d) During all hours other than Permitted hours non-~~
4 ~~permitted hours N-normal provisions of Chapter 368,~~
5 ~~Ordinance Code and EPB Rule 4 apply.~~

6 ~~(e) Alternately, in lieu of the restrictions on~~
7 ~~Broadband and Octave Band sound levels set forth in~~
8 ~~subsection (b), an Applicant may exceed these limits~~
9 ~~provided that Applicant utilizes an electro-~~
10 ~~acoustical "steering technique" to redirect sound~~
11 ~~waves away from the St. Johns River. If electing to~~
12 ~~utilize such technique, Applicant shall comply at~~
13 ~~all times with the offsite sound level limitations~~
14 ~~set forth in Chapter 368, Ordinance Code, and~~
15 ~~Environmental Protection Board Rule 4, and shall be~~
16 ~~liable for any offsite violation thereof.~~

17 (d) During each Permitted Event utilizing the either (b)
18 or (c) above, Environmental Quality Division staff
19 shall monitor sound levels at the sound board and at
20 impacted off-site locations throughout the Permitted
21 Hours of the Event. Applicant shall be responsible
22 for the sound monitoring costs associated with the
23 Environmental Quality Division staffing and
24 monitoring of the Event, which costs shall not
25 exceed \$1,000 per day.

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

28 (f) At least ten (10) business days prior to the Event,
29 Applicant shall submit a certified check, made
30 payable to the City of Jacksonville for \$10,000.00
31 as a Noise Pollution Compliance Fee. The certified

1 check shall be deposited into a non-interest bearing
2 escrow account until the Event is held. Alternately,
3 a letter of credit or surety bond may be presented
4 to Special Events at least ten (10) business days
5 prior to the Event as a deposit for the Noise
6 Pollution Compliance Fee. If no violations of
7 subsections ~~(b) or~~ (c) are recorded by the
8 Environmental Quality Division, the Noise Pollution
9 Compliance Fee shall be returned to the Applicant
10 within ten (10) business days after the Event.

11
12 However, if the Environmental Quality Division
13 ("EQD") measures onsite violations under subsection
14 3(b) above, ~~or offsite violations under subsection~~
15 ~~3(e) above,~~ the following penalties will be deducted
16 from the Noise Pollution Compliance Fee:

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

23 Each violation is cumulative so that if a 5th
24 violation occurs, the total penalty assessed shall
25 be \$10,000.00. If the City (through the EQD
26 monitoring staff) records more than five (5)
27 violations during an event, the City ~~shall have the~~
28 ~~right to "pull the plug" and the Event shall~~
29 ~~terminate shall assess a final penalty against the~~
30 ~~Applicant that the City shall not again lease~~
31 ~~Metropolitan Park for a period of three years to the~~

1 Applicant (including the promoter and/or production
2 company affiliated with the Applicant or Event) or
3 to any officer, director or person employed by, or
4 associated with, the Applicant, promoter or
5 production company, or to any entity affiliated with
6 or associated with any person, party or entity
7 promoting, producing, hosting, or managing the Event
8 which resulted in the violations. For purposes of
9 establishing violations of Environmental Protection
10 Board Rule 4, EQD monitoring staff shall allow no
11 less than ten (10) minutes between recorded
12 violations. ~~The Applicant shall designate two~~
13 ~~individuals as authorized representatives (one~~
14 ~~primary and one secondary) who shall be notified by~~
15 ~~the EQD monitoring staff when a violation is~~
16 ~~recorded. One authorized representative will be the~~
17 ~~Primary Sound Compliance Designee and the other will~~
18 ~~be the Secondary Sound Compliance Designee. When a~~
19 ~~violation is recorded, EQD monitoring staff shall~~
20 ~~notify the Primary Sound Compliance Designee of the~~
21 ~~recorded violation. Notification shall occur by~~
22 ~~calling the cell phone numbers on file as designated~~
23 ~~in paragraph A2 of this Agreement. If the Primary~~
24 ~~Sound Compliance Designee does not immediately~~
25 ~~respond (i.e., does not answer the call), the~~
26 ~~Secondary Sound Compliance Designee shall be~~
27 ~~notified. The Applicant shall have ten (10) minutes~~
28 ~~from the time that either the Primary Sound~~
29 ~~Compliance Designee or Secondary Sound Compliance~~
30 ~~Designee is notified of a violation to reduce the~~
31 ~~sound levels. The first notification of recorded~~

1 violation (either to the Primary Sound Compliance
2 Designee or the Secondary Sound Compliance Designee,
3 as applicable) will represent the first and only
4 Warning to the Applicant. All further notifications
5 of a recorded violation of the sound level standards
6 shall result in fines being imposed against the
7 Applicant as described above. If neither the
8 Primary nor Secondary Sound Compliance Designees are
9 responsive to the notification, EQD monitoring staff
10 need not make additional attempts to notify the
11 Applicant for that particular recorded violation,
12 and after ten (10) minutes may issue a citation as
13 if the Primary or Secondary Sound Compliance
14 Designees were notified. The Applicant shall
15 designate an authorized representative ("Compliance
16 Contact") who shall be stationed at the soundboard
17 during the Event. This person shall be notified by
18 the EQD monitoring staff when a violation is
19 recorded. It shall be the responsibility of the
20 Applicant to ensure that the Compliance Contact is
21 at the soundboard during the Event to receive notice
22 of violation(s). EQD monitoring staff must notify
23 the Compliance Contact of any recorded violation
24 upon occurrence. Provided however, if for any
25 reason the Compliance Contact is not at the
26 soundboard when a violation is recorded by EQD, EQD
27 shall notify the Compliance Contact or an alternate
28 representative designated by the Applicant, either
29 by phone call, text message or email, as indicated
30 by the Applicant. The Applicant shall notify the
31 City in writing at least five (5) business days

1 prior to the Event with the contact information for
2 the Compliance Contact and the alternate
3 representative, along with the preferred method of
4 notice when a violation is recorded and the
5 Compliance Contact is not positioned at the
6 soundboard. If the Compliance Contact is not at the
7 soundboard when a violation is recorded, the
8 alternate representative shall be contacted by EQD
9 in the manner designated by Applicant in writing
10 above and said notice shall be deemed effective for
11 purposes of notice of violation. The Applicant
12 shall have ten (10) minutes from the time that the
13 Compliance Contact, or alternate representative, if
14 applicable is notified of a violation to reduce the
15 sound levels. The first notification of recorded
16 violation will represent the first and only Warning
17 to the Applicant. All further notifications of a
18 recorded violation of the sound level standards
19 shall result in fines being imposed against the
20 Applicant as described above. If neither the
21 Compliance Contact, nor the alternate
22 representative, are responsive to the notification,
23 EQD monitoring staff need not make additional
24 attempts to notify the Applicant for that particular
25 recorded violation, and after ten (10) minutes from
26 attempted contact may issue a citation as if the
27 Applicant was duly notified.

28 (g) No more than three (3) additional or temporary
29 stages will be permitted for the Event. The
30 additional temporary stages shall be set to face away
31 from the St. Johns River. The location and

1 arrangement of the stages and sound systems shall be
2 in accordance with the Stage Configuration Map
3 attached hereto as Exhibit 2. Sound attenuation
4 blankets or sound walls shall be erected at the rear
5 of any temporary stages. Such temporary stage
6 installations shall be installed in such a manner so
7 as to minimize the noise impact on surrounding
8 residential properties."
9

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

13 To the extent that the foregoing conflicts with other
14 provisions of Chapter 368, *Ordinance Code*, or Environmental
15 Protection Board Rule 4, the provisions of this section shall
16 govern, supersede and control any inconsistent provisions of
17 Chapter 368, *Ordinance Code*, or Environmental Protection Board Rule
18 4, as to any entertainment, concert or special event held at
19 Metropolitan Park in which it is anticipated that 500 or more
20 individuals will attend and amplified sound will be utilized. This
21 section shall sunset, be repealed, and be of no further effect, on
22 or before September 30, 2014, unless extended in subsequent
23 legislation.

24 **Section 2. Definition of a Ticketed Event.** A "Ticketed
25 Event" is defined as any event where general admission is charged
26 and use of the entire Metropolitan Park property is restricted for
27 the Event. For purposes of defining "12 Ticketed Events" as
28 referenced in Section 191.202, *Ordinance Code*, Special Events shall
29 not grant licenses:

30 (a) For more than 12 individual Ticketed Events
31 annually;

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

6 (c) For more than 164 cumulative hours annually; or

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

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

9 **Agreement.** The City of Jacksonville hereby approves the modified
10 template for the Metropolitan Park License Agreement, attached
11 hereto as **Third Revised Exhibit 1, Third Revised Metro Park License**
12 **Agmt, November 26, 2013- Floor Sub,** and incorporated herein by
13 reference. The License Agreement at **Third Revised Exhibit 1**
14 modifies the requirements and conditions of use as related to
15 amplified sound at Metropolitan Park. In addition to the
16 permitting requirements under Chapter 191, *Ordinance Code*, all
17 applicants seeking a permit for an event with more than 500 people
18 estimated in attendance and involving amplified sound must enter
19 into a License Agreement consistent with the template set forth in
20 **Exhibit 1.**

21 **Section 4. Adoption of Interim Rules for Administration**
22 **and Governance of Metropolitan Park.** The City of Jacksonville
23 hereby adopts the Interim Rules for Administration and Governance
24 of Metropolitan Park, attached hereto as **Third Revised Exhibit 2,**
25 **Third Revised Interim Rules, November 26, 2013- Floor Sub,** and
26 incorporated herein by reference. These interim rules represent
27 legislative policy direction to the City Staff and are intended to
28 assist the City administration, departments and employees in best
29 practices as to the operational procedures and management of
30 Metropolitan Park.

31 **Section 5. Sunset.** Sections 1, 2 and 3 of this

1 ordinance, providing for a new section 368.109, *Ordinance Code*,
2 providing for approval of a modified license agreement for special
3 events with amplified sound and anticipated over 500 people in
4 attendance at Metropolitan Park, and providing for adoption of
5 interim rules for the City's administration and governance of
6 events at Metropolitan Park shall sunset, be repealed, and be of no
7 further effect, on or before September 30, 2014, unless extended in
8 subsequent legislation.

9 **Section 6. Effective Date.** This Ordinance shall become
10 effective upon signature by the Mayor or upon becoming effective
11 without the Mayor's signature.

12
13 Form Approved:

14
15 /s/ Paige Hobbs Johnston

16 Office of General Counsel

17 Legislation Prepared By: Paige Hobbs Johnston

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