

ORDINANCE NO. 3350

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FULLERTON, CALIFORNIA, AMENDING TITLE 15 (CHAPTER 15.90 NOISE REGULATIONS) AND TITLE 3 (CHAPTER 3.08 ENTERTAINMENT) TO UPDATE NOISE STANDARDS FOR PROPERTIES WITHIN C-3 (CENTRAL BUSINESS DISTRICT COMMERCIAL) AND G-C (GENERAL COMMERCIAL) ZONES WITH SPECIFIC PROVISIONS FOR OUTDOOR ENTERTAINMENT

WHEREAS the City Council of the City of Fullerton adopted a Resolution of Intention on June 5, 2018 pursuant to Fullerton Municipal Code Section 15.72.020.B, authorizing a Zoning Ordinance amendment to revise various chapters of Fullerton Municipal Code Titles 3 and 15.

WHEREAS City Council adopted a Resolution of Intention (Resolution No. 2014-58) pursuant to FMC Section 15.72.020 to consider amendments to the Fullerton Municipal Code pertaining to noise regulations in 2014.

WHEREAS the Planning Commission of the City of Fullerton held a duly noticed public hearing on July 23, 2025 for PRJ14-00172 - LRP-2020-0014, as required by law, to consider amendments to Fullerton Municipal Code Titles 3 and 15 to update noise standards and measurement processes related to noise including both the Preferred Approach and the Alternative Approach. This ordinance follows the Fullerton Transportation Center Specific Plan noise standards which City Council discussed as an acceptable Alternative Approach.

WHEREAS the City published a public hearing notice in the Fullerton News Tribune on September 4, 2025, as required by law, for PRJ14-00172 - LRP-2020-0014 to consider amendments to Fullerton Municipal Code Titles 3 and 15 to update noise standards and measurement processes related to noise as recommended.

WHEREAS the proposed Zoning Amendment establishes noise levels within C-3 and G-C zones while continuing to protect adjacent neighborhoods from impacts related to noise.

WHEREAS the proposed amendments are Categorically Exempt from California Environmental Quality Act (CEQA) provisions pursuant to Section 15061(b)(3) - common sense exemption and/or Section 15308, as establishing noise standards constitutes a regulatory action.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FULLERTON ORDAINS AS FOLLOWS:

SECTION 1. Findings. City Council finds as follows:

Finding 1: The proposed Zoning Ordinance amendment is consistent with the objectives of the Zoning Ordinance and General Plan.

Fact: FMC Chapter 15.72 authorizes the amendment. In addition, City Council adopted a Resolution of Intention on June 5, 2018 stating its intention to consider amendments to the Fullerton Municipal Code (FMC).

Fact: This amendment is consistent with multiple General Plan policies, including the following:

P1.11 Compatibility of Design and Uses: Support policies and regulations to consider the immediate and surrounding contexts of projects to promote positive design relationships and use compatibility with adjacent built environments and land uses, including the public realm.

P8.3 Consideration of Noise in Land Use Decisions: Support policies and regulations which ensure noise-compatible land use planning recognizing the relative importance of noise sources in order of community impact, the local attitudes towards these sources and the suburban or urban characteristics of the environment, while identifying noise sensitive uses.

P10.16 Economic Strategies in Focus Areas: Support policies and regulations pertaining to planning efforts for City Focus Areas that facilitate investment and encourage economic activity that benefits the Fullerton community and the City.

Fact: The Fullerton Plan Implementation Strategy, Short Term action plan Item 8.1 – “Update the City’s Noise Ordinance to comply with the policies of the Fullerton Plan and to address noise issues in the community”

Finding 2: The proposed Zoning Ordinance amendment promotes the public health, safety and welfare of the community.

Fact: The proposed amendment to Title 15 will promote the public health, safety and welfare by providing clear and enforceable standards for noise levels within the boundaries of C-3 and G-C zones while maintaining current noise level restrictions for all properties outside of these zones.

SECTION 2. The Council of the City of Fullerton does approves modifications to Fullerton Municipal Code Titles 3 and 15 as follows:

TITLE 15 MUNICIPAL CODE AMENDMENT. City Council amends Title 15 (Zoning) amended to repeal and replace Chapter 15.90 (Noise Standards and Regulation) in its entirety as follows:

Chapter 15.90
NOISE STANDARDS AND REGULATION

Sections:

- 15.90.010. Intent and purpose.*
- 15.90.020. Definitions.*
- 15.90.030. Noise standards.*
- 15.90.040. Activities exempt from standards.*
- 15.90.050. Activities with special provisions.*
- 15.90.060. Noise level measurement.*
- 15.90.070. Enforcement.*
- 15.90.080. Appeal.*

15.90.010. Intent and purpose.

A. In order to control unnecessary, excessive and annoying sounds emanating from incorporated areas of the city, it shall be the policy of the city to prohibit such sounds generated from all sources as specified in this chapter except that noise regulated by any penal statute or ordinance and those activities that have been preempted by state or federal law.

B. Specified noise levels have been determined to be detrimental to the public health, welfare and safety and contrary to public interest; therefore, creating, maintaining, causing or allowing to create, maintain or cause any noise in a manner prohibited by or not in conformity with the provisions of this chapter is a public nuisance and shall be punishable as such.

15.90.020. Definitions.

A. Whenever used in this chapter, the following words, phrases and terms shall have the meaning as indicated below:

AMBIENT NOISE LEVEL means the composite of noise from all sources near and far, excluding the alleged offensive noise, at the location and approximate time at which a comparison with the alleged offensive noise is to be made. In this context, the ambient noise level constitutes the normal or existing level of environmental noise at a given location.

C-3 ZONE means the zoning applied to a defined area specifically described as Central Business District Commercial in Fullerton Municipal Code Section 15.30.020.C.

CUMULATIVE PERIOD means an additive period of time composed of individual time segments that may be continuous or interrupted.

DECIBEL (dB) means a unit that denotes the ratio between two quantities which are proportional to power: the number of decibels corresponding to the ratio of 2 amounts of power is 10 times the logarithm to the base 10 of this ratio.

EMERGENCY MACHINERY, VEHICLE OR WORK means any machinery, vehicle or work used, employed or performed in an effort to protect, provide or restore safe conditions in the community or for the citizenry, or work by private or public utilities when restoring utility service.

EQUIVALENT CONTINUOUS SOUND PRESSURE LEVEL (Leq) means the average sound level over the period of the measurement.

FIXED NOISE SOURCE means a stationary device that creates sounds while fixed or motionless, including but not limited to industrial and commercial machinery and equipment, pumps, fans, compressors, generators, air conditioners and refrigeration equipment.

G-C ZONE means the zoning applied to a defined area specifically described as General Commercial in Fullerton Municipal Code Section 15.30.020.C.

GRADING means any excavating or filling of earth material, or any combination thereof conducted to prepare a site for construction or other improvements thereon.

IMPACT NOISE means the noise produced by the collision of one mass in motion with a second mass that may be either in motion or at rest.

MAXIMUM SOUND LEVEL means the highest level measured during a single noise event or period.

MOBILE NOISE SOURCE means any noise source other than a fixed noise source.

NOISE LEVEL means the "A" weighted sound pressure level in decibels obtained by using a sound level meter at slow response with a reference pressure of 20 micro-newtons per square meter. The unit of measurement shall be designated as dB(A).

PERSON means a person, firm, association, co-partnership, joint venture, corporation of any entity, public or private in nature.

PUBLIC PROPERTY means any real property or structures thereon which are owned or controlled by a governmental entity. This also includes any street, avenue, boulevard, highway, sidewalk or alley or similar place which is owned or controlled by a governmental entity.

RESIDENTIAL PROPERTY means a parcel of real property that is developed and used either in part or in whole for residential purposes, other than transient uses such as hotels and motels.

SIMPLE TONE NOISE means a noise characterized by a predominant frequency or frequencies so that other frequencies cannot be readily distinguished.

SOUND PRESSURE LEVEL of a sound, in decibels, means 20 times the logarithm to the base 10 of the ratio of the pressure of the sound to a reference pressure, which reference pressure shall be explicitly stated.

B. A NOISE ZONE is defined as an area where a specific set of standards has been established for allowable interior and exterior noise levels.

1. A RESIDENTIAL NOISE ZONE includes all properties with a residential zone classification, whether incorporated or unincorporated.

2. A COMMERCIAL NOISE ZONE includes all properties with a commercial or public land use zone classification, whether incorporated or unincorporated.

15.90.030. Noise standards.

A. The following noise standards, unless otherwise specifically indicated, shall apply to all property within the Residential Noise Zone:

<i>Hours (Monday – Sunday)</i>	<i>Max dB(A) at affected property (interior)</i>	<i>Max dB(A) at affected property (exterior)</i>
<i>7:00 a.m.-10:00 p.m.</i>	<i>55 dB(A)</i>	<i>55 dB(A)</i>
<i>10:00 p.m.-7:00 a.m.</i>	<i>45 dB(A)</i>	<i>50 dB(A)</i>

B. The following noise standards, unless otherwise specifically indicated, shall apply to all property zoned C-3 and G-C:

- 1. All buildings shall be designed to achieve the applicable interior noise standards established by Title 24 of the California Code of Regulations, also known as the California Building Standards Code.*
- 2. All commercial activities, including but not limited to, outdoor dining and outdoor events and performances, shall comply with the following noise standards:*
 - a. No person or group shall create any noise, or allow the creation of any noise, which exceeds the exterior noise levels established in this section.*
 - b. The noise limits in Table 2-1 apply to all commercial activities within the C-3 and G-C zones, including outdoor dining, amplified sound, and entertainment. Measurements are taken at the property line of the parcel where the noise originates, and compliance is determined from those measurements.*
 - c. A special event (approved pursuant to a permit) or City-sponsored*

community activities, such as New Years Eve celebrations, shall be exempt from the noise restrictions contained within section 15.90.030.

Table 2-1: Exterior Noise Levels (dBA)		
Time Period	5 min.	1 min.
7:00 a.m. - 10:00 p.m.	75	80
10:00 p.m. - 7:00 a.m.	65	70
Fri-Sun 10:00 p.m. - 1:30 a.m.*	75	80
Outdoor Entertainment (5pm-10pm)*	80 dBA max	
*Only apply when approved by the City (e.g. Entertainment Permit, Administrative Restaurant Use Permit, Conditional Use Permit, or other applicable approval.)		

3. Noise generated by audio speakers or sound systems in areas with a mix of commercial and residential uses is generally considered part of the ambient noise environment. However, such noise shall not be plainly audible within adjacent commercial or residential buildings when doors and windows are closed. If City staff determines, based on observation or measurement, that such noise is plainly audible under these conditions, the property owner, tenant, or operator responsible for the noise source shall reduce the volume or implement reasonable acoustic mitigation measures to prevent the noise from exceeding this standard.
4. Unless otherwise identified herein, all properties and activities shall comply with the standards and regulations of Fullerton Municipal Code Section 15.90.050.

C. Noise standards for a sensitive use:

1. A "sensitive use" for the purpose of this chapter means any private or public school, hospital, residential care facility for the elderly, and religious institution.

2. It shall be unlawful for any person at any location within the incorporated area of the city to create any noise that causes the noise level at any sensitive use, while the same is in operation to exceed the noise limits as specified for the Residential Noise Zone, notwithstanding the sensitive use may be located outside of the Residential Noise Zone.

D. Residential Enforcement Standards:

It shall be unlawful for any person at any location within the incorporated area of the city to create any noise which can be classified as being continuous, reoccurring, predictable, or whose operation of noise-generating capabilities can be stopped or started at a specified time, or to allow the creation of any noise on property owned, leased, occupied

or otherwise controlled by such person, which causes the noise level, when measured on the property, either incorporated or unincorporated, to exceed:

- 1. The noise standard for a cumulative period of more than 30 minutes in any hour;*
- 2. The noise standard plus 5 dB(A) for a cumulative period of more than 15 minutes but less than 30 minutes in any hour;*
- 3. The noise standard plus 10 dB(A) for a cumulative period of more than 5 minutes but less than 15 minutes in any hour;*
- 4. The noise standard plus 15 dB(A) for a cumulative period of more than one minute but less than five minutes in any hour;*
- 5. The noise standard plus 20 dB(A) for a cumulative period of less than one minute in an hour.*

E. In the event the ambient noise level exceeds any of the five noise limit categories listed in Subsection D, the cumulative period applicable to the category shall be increased to reflect the ambient noise level.

F. The permitted deviations from the noise standards specified in 15.90.030.D or 15.90.030.E. shall only be applicable to residential zones and shall not be applicable to properties zoned C-3 or G-C.

15.90.040. Activities exempt from standards.

- A. The following activities shall be exempt from the noise level standards specified by this chapter:*
- 1. School bands, school athletic and school entertainment events.*
 - 2. Outdoor gatherings, public dances, shows and sporting and entertainment events provided the events are conducted pursuant to a permit and/or license issued by the city.*
 - 3. Activities and maintenance conducted on public property, parks, playgrounds and public or private school grounds.*
 - 4. Any mechanical device, apparatus or equipment used, related to or connected with the use of machinery, vehicles, or work due to an emergency.*
 - 5. All mechanical devices, apparatus or equipment which are utilized for the protection or salvage of agricultural crops during periods of potential or actual frost damage or other adverse weather conditions.*

6. *Mobile noise sources associated with agricultural pest control through pesticide application.*

7. *Noise from vehicular traffic on public streets.*

B. For the drilling of water wells, the Director of Community and Economic Development may approve or conditionally approve an exception or limited exemption from the noise level standards of this chapter.

15.90.050. Activities with special provisions.

A. The following activities shall be exempt from the noise level standards specified by this chapter provided they take place between the hours of 7 a.m. and 8 p.m. on any day except Sunday or a City-recognized holiday.

- 1. Noise sources associated with construction, repair, remodeling, or grading of any real property.*
- 2. Mobile noise sources associated with agricultural operations.*
- 3. Noise sources associated with the maintenance of real property, including normal maintenance and repair by city and utility crews.*

B. Installation of air conditioning, refrigeration and pool equipment shall be certified to be within the provisions of this chapter for night and day operation noise levels.

C. Activities involving deliveries and pickups in all Commercial Zones shall comply with the provisions of this chapter for night and day operation noise levels based on the following criteria.

- 1. Rubbish and Garbage Collection for all Commercial Zones. Collection times for all commercial zones shall be conducted during the following hours:*
 - a. Between the hours of 6:00 a.m. and 9:00 p.m. if trash receptacles or bins are located within 200 feet of a Residential Zone or residences located in a Mixed-Used Development.*
 - b. At any time, if the trash bins are located more than 200 feet from a Residential Zone or residences located in a Mixed-Used Development.*
- 2. Deliveries and Vehicle loading or unloading in all Commercial Zones. Delivery Hours shall be conducted during the following hours:*
 - a. Between the hours of 7:00 a.m. and 10:00 p.m. if the property receiving the delivery is located within 200 feet of a Residential Zone or residences located in a Mixed-Used Development.*

- b. At any time, if the property receiving the delivery is located more than 200 feet from a Residential Zone or residences located in a Mixed-Used Development.

15.90.060. Noise level measurement.

A. Residential Noise Sources - Exterior

The location selected for measuring exterior noise levels shall be at any point on the affected property. The affected property shall be the address from which the complaint was received.

B. Residential Noise Sources – Interior

The location selected for measuring interior noise levels shall be made within the affected property at point at least four feet from the wall, ceiling or floor nearest the noise source.

C. Commercial Noise Sources – Enforcement on C-3 and G-C Zoned Properties.

For enforcement on properties zoned C-3 or G-C, compliance is determined against the one-minute and five-minute thresholds in Table 2-1 and measurements are taken at the property line of the noise-generating parcel.

D. Any noise level measurements made pursuant to the provisions of this chapter shall be performed using a minimum ANSI compliant rating sound level meter and be capable of logging date, time, and geographic location of the reading to the satisfaction of the Community and Economic Development Director.

15.90.070. Enforcement.

A. The Director of Community and Economic Development and his/her duly authorized representatives are directed to enforce the provisions of this chapter.

1. Code Enforcement Division shall be appointed as the case manager, upon receiving a noise complaint; coordinating with the relevant departments as appropriate based on the circumstance; and conducting other actions necessary to enforce the provisions of this chapter as appropriate.
2. Repeated or continued violations of this chapter may constitute grounds for modification or revocation of the permit and/or related land use entitlements.

B. No person shall interfere with, oppose or resist any authorized person charged with the enforcement of this chapter.

15.90.080. Appeal.

A. The owner or operator of a noise source who has been cited in violation of the provisions of this chapter may appeal the citation to the City Council. Within 15 days

following receipt of a notice of appeal, the City Clerk shall forward to the City Council the recommendation of the Director of Development Services, the notice of appeal, and all evidence concerning the appeal received by the Director. In addition, any person may file with the City Council written arguments supporting or attacking the citation. The City Clerk shall mail to the applicant and the complainant a notice of the date set for hearing of the appeal. The notice shall be mailed at least ten days prior to the hearing date.

B. Within 60 days following its receipt of the notice of the appeal, the City Council shall affirm, modify or reverse the citation. The decision shall be based upon the evaluation by the City Council of the matter. As part of its decision, the City Council may direct the Director of Development Services to conduct further proceedings on the appeal. Failure of the City Council to affirm, modify or reverse the citation within the 60-day period shall constitute an affirmation of the citation.

SECTION 3. TITLE 3 MUNICIPAL CODE AMENDMENT. Title 3 (Regulation of Activities) is hereby amended to repeal and replace Chapter 3.08 (Entertainment) in its entirety as follows:

*Chapter 3.08
Entertainment*

Sections:

- 3.08.010 Intent and purpose.
- 3.08.020. Definitions.
- 3.08.030. Permit required.
- 3.08.040. Exempt activities.
- 3.08.050. Entertainment Permit application fees.
- 3.08.060. Entertainment Permit application contents.
- 3.08.070. Entertainment Permit application review and investigation.
- 3.08.080. Entertainment Permit - denial.
- 3.08.090. Appeal process.
- 3.08.100. Appeal hearing.
- 3.08.110. Entertainment Permit validity and renewal.
- 3.08.120. Existing Entertainment Permit - validity.
- 3.08.130. Change of ownership - non-transferable permits.

3.08.140. Baseline operational requirements for Entertainment establishments.

3.08.150. Operational restriction procedures.

3.08.160. Entertainment Permit suspension or revocation.

3.08.170. Excessive police services required.

3.08.180. Violation - penalty.

3.08.190. Severability.

3.08.010 Intent and purpose.

The intent of this chapter is to ensure that businesses offering Entertainment as part of their normal business practices are compatible with surrounding land uses and businesses and are consistent with the goals and objectives of the General Plan.

The purpose of this chapter is to establish standards and procedures to facilitate the orderly operation of businesses offering Entertainment as a normal part of their business practices.

3.08.020 Definitions.

Whenever used in this chapter, the following words, terms and phrases shall have the meanings as indicated below.

A. "Amateur", shall mean any person who has never been an entertainer for compensation.

B. "Ambient music", shall mean low-volume, background music, whether amplified or not amplified, not audible to a reasonably hearing person at (25) twenty-five feet from any portion of the exterior of the building (including outdoor patios/dining areas), and which is intended to provide ambience and not to entertain.

C. "Audience" shall mean one or more persons, present as listeners or viewers, but not as entertainers, during any entertainment.

D. "Audition", shall mean any test of the quality of entertainment not in the presence of a public audience and without compensation.

E. "Entertainer", shall mean any person whose actions or presence provides entertainment, but does not mean a vocalist or a café musician, as defined in Section 37101.5 of the Government Code of California, while occupied exclusively in singing or performing music.

F. "Entertainment", shall mean any of the following: 1) dancing (by customers or by performers), 2) live musical performances (instrumental or vocal) when carried on by three or more persons, 3) music provided by a disc jockey, whether indoors or outdoors other than Ambient Music, or karaoke 4) any professional comedian or comic who tells jokes, acts out comical situations, or engages in repartee, or 5) any other similar entertainment activity involving amplified or reproduced music.

G. "Entertainment (minor acoustical)", shall mean two (2) or less café musicians, as defined in California Government Code Section 37101.5, playing acoustical instruments without the use of amplification systems. Such performers may be strolling or stationary within the establishment.

H. "Entertainment (outdoor)", shall mean any "entertainment", as defined in this chapter, which occurs outside of a fully enclosed building.

I. "Nightclub", shall mean any bar, cocktail lounge, karaoke bar or similar establishment with Entertainment and alcoholic beverage sales operating under a Type 42 or Type 48 Department of Alcoholic Beverage Control license (On-sale General-Public Premises) or similar license.

3.08.030 Permit required.

It shall be unlawful for any person or business to provide in, or upon, any premises within the City, Entertainment without an Entertainment Permit issued by the City pursuant to the provisions of this chapter. Penalty, see § 3.08.180

3.08.040 Exempt activities.

The provisions of this chapter shall not apply to any of the following:

A. Any Entertainment consisting solely of auditions, as that term is defined in this chapter;

B. Any amateur who sings while in, and a part of, any audience, excluding karaoke;

C. Entertainment provided in, and with the consent of any person in control of, any public park, stadium, arena, circus, fairground, auditorium or upon any educational, governmental or military property;

D. Any Entertainment provided in any theater not a part of, or having any entrance in common with, any restaurant;

E. Any Entertainment provided at, during, and with the consent of the person in charge of, any meeting, game, contest, picnic or outing of, and exclusively for, any non-profit religious, fraternal, charitable, humanitarian, governmental, military, veterans, civic, youth, school, business, commercial, educational, musical, dramatic, literary,

sporting, social, labor, employee, or service club or group, or any similar non-profit private club or group;

F. Entertainment (Minor Acoustical) as that term is defined in this Chapter.

3.08.050 Entertainment Permit application fees.

A. Any person desiring to obtain an Entertainment Permit shall submit an application to the Chief of Police or their designated representative in the manner and form described in this chapter. At the time of submittal of such application, a nonrefundable fee as established by resolution of the City Council shall be paid to defray the cost of review, investigation, report, and inspections required by this chapter.

B. The submission of an application for an Entertainment Permit does not authorize the Entertainment until such Permit has been granted by the Chief of Police or their designated representative.

3.08.060 Entertainment Permit application contents.

An application for an Entertainment Permit shall include, but not be limited to, the following information:

A. The business name and address of the location where the Entertainment will occur.

B. Written, notarized authorization from the property owner authorizing the applicant to apply for an Entertainment Permit.

C. A complete floor plan of the location where the Entertainment will occur. The floor plan shall identify where within the establishment the Entertainment will be performed. Entertainment which moves throughout the establishment (e.g., strolling musician) shall be identified as such.

D. A detailed description of the type of Entertainment that is proposed.

E. The address, telephone number and e-mail contact of the Entertainment Permit applicant.

F. Acceptable written proof that the applicant is at least (18) eighteen years of age. If the applicant is to be employed in a place of business where alcoholic beverages are to be sold or consumed, the applicant shall provide acceptable written proof that the applicant is at least (21) twenty-one years of age;

G. Dates and times when the Entertainment is to occur.

H. Contact person(s), title (e.g., manager, owner, agent, etc.) and phone number at the business location where the Entertainment will occur.

I. A Security and Operations Plan which includes, but is not limited to, the number of security personnel, equipment and cameras, security practices and any other pertinent information as determined by the Police Department to be necessary to evaluate the adequacy of security for the establishment where Entertainment is provided.

J. Copy of the Department of Alcoholic Beverage Control license (if applicable) at the location where the Entertainment will occur.

K. All convictions, including ordinance violations, exclusive of traffic violations, stating the dates and places of any such conviction;

L. Such other identification and information as required by the Police Department.

3.08.070 Entertainment Permit application review and investigation.

A. Upon receipt of the completed application, the Chief of Police, or their designee, in consultation with other applicable City departments, shall review the application and conduct an investigation, including, but not limited to, any past criminal convictions as provided by the Justice Department or other legally authorized agency.

B. The Chief of Police, or their designee shall grant the Permit if they find that all of the following components have been provided:

- 1. The required fee has been paid.*
- 2. The application conforms in all respects to the requirements in Section 3.08.060 of this chapter.*
- 3. The applicant has not made any false, misleading or fraudulent statements in the application.*
- 4. The applicant has fully cooperated in the investigation of his or her application.*
- 5. The applicant has not been convicted in a court of competent jurisdiction of an offense involving conduct which requires registration under California Penal Code Section 290, California Health and Safety Code Section 11590, or of conduct violating Penal Code Section 647(a), 647(b), or any crime involving dishonesty, fraud or deceit.*
- 6. The applicant is at least eighteen years of age; or, if the applicant is to be employed in a place of business where alcoholic beverages are to be sold or consumed, the applicant is at least twenty-one years of age.*
- 7. The applicant has not engaged in conduct which would constitute grounds for suspension or revocation under this chapter.*

8. *The applicant has not had an Entertainment Permit denied or revoked within the past six months.*

9. *The business establishment in which the Entertainment is proposed has operated in good standing with the City regarding calls for service, violations of the Municipal Code, compliance with land use entitlements, or violations from the Department of Alcoholic Beverage Control.*

3.08.080 *Entertainment Permit - denial.*

If the Chief of Police, in consultation with other City Departments, and following investigation of the applicant, finds that the Permittee does not fulfill the requirements set forth in this chapter, the Chief of Police shall deny the application and notify the Permittee in writing of such denial.

3.08.090 *Appeal process.*

Any Permittee who is denied a Permit by the Chief of Police may appeal such denial to the Hearing Officer, pursuant to the provisions of this chapter.

A. *The Permittee shall file a written appeal with the City Clerk within (10) ten business days of the date of mailing of the notice of denial, suspension or revocation.*

B. *The Hearing Officer shall schedule a hearing to be held within (10) ten business days after the filing of the appeal.*

C. *Notice of the date, time and place of the hearing shall be mailed to the applicant at least (10) ten days prior thereto.*

D. *The Hearing Officer, in his/her sole discretion, may grant or deny a continuance, may dissolve stays of pending orders of denial, suspension or revocation.*

E. *The Hearing Officer, shall determine, after consideration of all evidence presented, whether a Permit should be issued, reinstated, suspended or revoked. The decision of the Hearing Officer shall be final.*

3.08.100 *Appeal hearing.*

The following rules of evidence shall apply:

A. *Oral evidence shall be taken only under oath or affirmation. The Hearing Officer shall have authority to administer oaths, and to receive and rule on admissibility of evidence.*

B. Each party shall have the right to call and examine witnesses, to introduce exhibits and to cross-examine opposing witnesses who have testified under direct examination. The Hearing Officer may call and examine any witness.

C. Technical rules relating to evidence and witnesses shall not apply to hearings provided for herein. Any relevant evidence may be admitted if it is material and is evidence customarily relied upon by responsible persons in the conduct of their affairs regardless of the existence of any common law or statutory law which might make admission of such evidence improper over objection in civil actions. Hearsay testimony may be used for the purpose of supplementing or explaining any evidence given in direct examination, but shall not be sufficient in itself to support a finding unless such testimony would be admissible over objection in civil actions. The rules of privilege shall be applicable to the extent that they now, or hereafter, are permitted in civil actions. Irrelevant, collateral, undue, and repetitious testimony shall be excluded.

3.08.110 Entertainment Permit validity and renewal.

Entertainment Permits are valid for a period of one year and may be renewed upon approval of a renewal application. The renewal fee for an Entertainment Permit shall be set by resolution of the City Council. The Permittee shall submit an application for Permit renewal which shall provide any updated information as required under this chapter for the original application. Renewal of the Permit shall be based on the same criteria as the original Entertainment Permit.

3.08.120 Existing Entertainment Permit - validity.

In the event of any amendments to this chapter, existing Entertainment Permits approved prior to any amendments to this chapter, shall be valid until the expiration date of the existing Entertainment Permit. At such time the establishment must comply with all aspects of this chapter in order to be issued an Entertainment Permit.

3.08.130 Change of ownership - non-transferable permits.

No Entertainment Permit may be sold, transferred or assigned by a Permittee, to any other person or persons. Any such sale, transfer or assignment, or attempted sale, transfer or assignment, shall be deemed to constitute a voluntary surrender of such Permit and such Permit shall thereafter be null and void.

3.08.140 Baseline operational requirements for Entertainment establishments.

The following baseline operational requirements shall be applicable to all businesses with an Entertainment Permit. The Chief of Police, in consultation with other departments, may require additional conditions of approval on an Entertainment Permit based on the specific location and operational characteristics of the business. These requirements do not modify or limit in any way the authority of the Chief of Police to enforce Penal Code

Section 415 (disturbing the peace) against any person, or of the Chief of Police or the Fire Marshal to immediately take action in the event of an imminent threat to public health or safety.

A. Compliance with laws. All individuals and/or business entities who obtain an Entertainment Permit shall comply with all applicable laws, regulations, ordinances and stated conditions.

B. Time restrictions. Entertainment may not take place between the hours of 2:00 a.m. and 8:00 a.m. The time restrictions may be further limited by an applicable conditional use permit or Entertainment Permit.

C. Type, manner and hours of operation. The type, manner, frequency, dates and times during which Entertainment is provided shall be limited to what is expressly indicated on the Entertainment Permit. Any substantial changes to the type, manner, frequency, dates or times of Entertainment shall require the Permittee to submit an application for an amendment to the Entertainment Permit, which shall be processed in the same manner as a new Entertainment Permit, prior to making any changes to the business operation.

D. No Adult Entertainment, as defined by Fullerton Municipal Code Section 7.95, shall be conducted on the permitted premises. Permittees shall not allow, permit, procure, or encourage, anyone to expose male or female genitals, cleft of the buttocks, the areola or any portion of the female breast below the areola, while at or inside the business.

E. Outdoor Entertainment. Any Entertainment (Outdoor), excluding Ambient Music is prohibited except within the boundaries of commercial properties zoned C-3 and G-C as defined in Chapter 15.90 and Administrative Restaurant Use Permit (ARUP) with the following conditions:

- 1. Outdoor Entertainment is limited to the hours of 5:00pm to 10:00pm, Monday through Sunday.*
- 2. No outdoor entertainment of any kind (amplified or non-amplified) will be permitted before 5:00 p.m. or after 10:00 p.m. Monday through Sunday.*
- 3. Noise from outdoor entertainment shall comply with the noise standards in Chapter 15.90.30.B, including Table 2-1, measured at the property line of the parcel generating the noise. Establishments are responsible for managing and adjusting sound and amplification equipment to ensure compliance.*

F. Permit posted on site. Permittees shall place or post an approved Entertainment Permit including conditions of approval on the premises in a place easily accessible by city staff.

G. Promoters. Neither the business, nor anyone on its behalf, shall share any profits, or pay any percentage or commission to a promoter or otherwise receive compensation for use of the facilities.

H. Advertising. Permittee shall not distribute, post or attach, and shall be responsible for ensuring that no agents on its behalf, distribute, post or attach, advertising matter on public property, public right-of-way, or on any vehicle on public property.

I. Noise. Permittee shall ensure that noise emanating from the business shall not be unreasonably loud or disturbing and shall comply with the noise standards contained in Chapter 15.90.

J. Occupancy. Building occupancy loads shall be posted at all times. Permittee shall be responsible to keep count of the number of occupants present at any given time and provide that information to City staff upon request.

K. Security Plan. Permittee shall be responsible for adhering to the Security Plan reviewed and approved by the Chief of Police, or their designee. Modifications to the approved Security Plan shall be reviewed and approved by the Police Department prior to making any changes to security operations. It is the responsibility of the business establishment to update the security plan on file with the city when/if there are any changes in the operational characteristics of the establishment which may alter the contents of the security plan. Changes in business name and/or ownership shall require an updated security plan to be provided to the city.

L. Loitering. Permittee shall take steps to prevent patrons from loitering in the immediate area, littering or making excessive noise outside of the establishment and at closing time.

M. Doors and windows. All exterior doors and windows must be closed during the hours of Entertainment, except to allow ingress or egress of patrons, or in the case of emergencies. Exceptions to this requirement may be considered as part of a conditional use permit based on the business location, building design, business operations, and outdoor entertainment.

3.08.150 Operational restriction procedures.

In the event that the Permittee fails to comply with the baseline operational requirements and/or conditions of approval of the Entertainment Permit, the Chief of Police, in consultation with other city departments, may elect to take the following steps to minimize impacts to health, safety and welfare, and gain compliance with all applicable laws, regulations, ordinances and stated conditions. Decisions by the Chief of Police to exercise the below operational restrictions shall not be appealable:

A. Step 1 - Remedy Meeting. Upon a third violation of the Entertainment Permit, or any applicable federal, state or local laws or regulations within a twelve (12) month period,

the Permittee shall be required to attend a meeting with the Chief of Police and other applicable departments to discuss the violations and specify actions that will be undertaken by the Permittee to address the violations. Failure by the Permittee to attend this meeting shall not restrict the City from imposing additional operational restrictions on the business.

B. Step 2 - Restrictions. In the event that Step 1 - Remedy Meeting does not result in compliance with the terms of the Entertainment Permit within 30 days, or within a timeframe otherwise specified by the city, Permittee will be notified in writing that the business must comply with any or all of the following Step 2 - Restrictions for a period of 30 days, or for a period otherwise specified by the city.

1. No Entertainment of any kind shall be permitted after midnight, or 1:00 a.m., at the discretion of the City;

2. No outdoor queuing shall be permitted after 11:00 p.m. or midnight, at the discretion of the City;

3. Provision of additional security personnel at hours determined necessary by the Chief of Police and/or implementation of additional security measures, including but not limited to, security check procedures for incoming patrons;

4. Any additional measures determined necessary by the city may be imposed to protect public health and safety.

C. Step 3 - Restrictions. In the event that Step 2 - Restrictions do not result in compliance with the terms of the Entertainment Permit within 30 days, or within the timeframe otherwise specified by the City, Permittee will be notified in writing that the business must comply with any or all of the following Step 3 - Restrictions for a period of 30 days, or for a period otherwise specified by the City.

1. No Entertainment of any kind shall be permitted after 10:00 p.m.;

2. No outdoor queuing shall be permitted after 10:00 p.m.;

3. Provision of additional security personnel at hours determined necessary by the Chief of Police and/or implementation of additional security measures, including but not limited to, security check procedures for incoming patrons;

4. Any additional measures determined necessary by the City may be imposed to protect public health and safety.

3.08.160 Entertainment Permit suspension or revocation.

The Chief of Police in consultation with other City departments, may suspend or revoke an Entertainment Permit if a Permittee has:

- A. Violated any provision of this chapter;*
- B. Violated conditions of the Entertainment Permit;*
- C. Not modified their operations in compliance with Step 2 and/or Step 3 Restrictions and Permittee continues to violate the terms and conditions of the Entertainment Permit, as required by the Chief of Police;*
- D. Made any false, misleading, or fraudulent statements in the application; or*
- E. Been convicted of a felony or misdemeanor involving dishonesty, fraud, or deceit.*
- F. The Permittee shall be provided with written notice of such suspension or revocation. The Permittee may file an appeal to City Council with the City Clerk within (10) ten calendar days of the date of mailing of the notice of revocation. If no appeal is filed, the revocation shall become effective upon expiration of the period for filing appeals.*

3.08.170 Excessive police services required.

As a result of any incident or nuisance arising out of or in connection with Permittee's operations, the cost of such services may be billed to Permittee as an expense of those costs incurred by the City of Fullerton in making any appropriate emergency response to the incident, and shall be comprised of all costs directly arising because of the response to the particular incident, including, but not limited to, the costs of providing police, firefighting, rescue, and emergency medical services at the scene of the incident, as well as the salaries of the personnel responding to the incident.

3.08.180 Violation - penalty.

Any person violating any section of this chapter shall be guilty of a misdemeanor.

3.08.190 Severability.

If any word, phrase, clause, sentence or section of this chapter is for any reason invalid, such invalidity shall not impair the validity of any other part of this chapter and the City Council hereby declares that it would have enacted each and every part of this chapter without any such invalidity of any other part thereof.

SECTION 3. Inconsistencies. Any provision of the Fullerton Municipal Code or appendices thereto inconsistent with the provisions of this ordinance, to the extent of such inconsistencies and or further, is hereby repealed or modified to the extent necessary to affect the provisions of this ordinance.

SECTION 4. Severability. If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this ordinance which can be implemented without the invalid provision, clause or application; and to this end, the provisions of this ordinance are declared to be severable.

ADOPTED BY THE FULLERTON CITY COUNCIL ON OCTOBER 21, 2025.

Fred Jung
Mayor

ATTEST:

Lucinda Williams, MMC
City Clerk

Date