

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, TEXAS, GRANTING THE DENTON DAY OF THE DEAD FESTIVAL, PURSUANT TO SECTION 17-20 OF THE CODE OF ORDINANCES, A NOISE EXCEPTION ON SATURDAY, OCTOBER 28, 2017, GRANTING AMPLIFIED SOUND LEVELS FOR AN OUTDOOR MUSIC FESTIVAL FROM 70 TO 75 DBA FROM 11 A.M. UNTIL 9 P.M.; AND SETTING AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 17-20 of the Code of Ordinances of the City of Denton, Texas, the Denton Day of the Dead ("Festival") has made application to the City Council for an exception to the provision restricting sound levels for an outdoor music festival, in connection with the Festival held on the corner of Mulberry and Industrial Street, from the limitations imposed by Section 17-20 of the Code of Ordinances of the City of Denton, Texas, granting amplified sound levels from 70 to 75 decibels for an outdoor music festival from 11 a.m. to 9 p.m. on Saturday, October 28, 2017;

WHEREAS, upon prior application and approval by the City Council of the City of Denton, Texas, the Denton Day of the Dead Festival has consistently demonstrated an ability to responsibly operate the annual event held at the corner of Mulberry and Industrial Street, at days restricted in Section 17-20 of the Code of Ordinances of the City of Denton, Texas, within the public interest, and without materially disturbing persons of ordinary sensibilities in the immediate vicinity thereof; and

WHEREAS, based upon this past history, the City Council of the City of Denton, Texas finds that granting a noise exception for this event, subject to the restrictions contained herein, would serve the public interest; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. Pursuant to Section 17-20 of the Code of Ordinances, the Denton Day of the Dead Festival is hereby granted an exception to said section's amplified sound prohibition subject to the following restrictions:

1. This exception to the limitations imposed by Section 17-20 of the Code of Ordinances of the City of Denton, Texas, is granted only in connection with the operation of the Denton Day of the Dead Festival annual event at the corner of Mulberry and Industrial Street.
2. The Festival agrees to take full responsibility for ensuring that the conditions of this exception are met, and to take all reasonable measures necessary to avoid disturbing persons of ordinary sensibilities in the immediate vicinity of the event.
3. The Festival agrees to cease using amplified loudspeakers at 9 p.m. on Saturday, October 28, 2017.
4. Under no circumstances shall the Festival employ the use of amplified loudspeakers past 9 p.m. on Saturday, October 28, 2017.

5. Under no circumstances shall the Festival employ the use of amplified loudspeakers that exceed the requested increase of dba of 75 for an outdoor concert when measured from the perimeter of the source as measured by an approved measuring instrument.
6. This ordinance confers no personal or property rights, and may be amended, modified, suspended, or revoked in whole or in part at the will of the City Council of the City of Denton, Texas, without any advance warning, hearing, or compensation, for any reason at all, or for no reason.
7. This ordinance shall be strictly construed as an exception granted pursuant to Section 17-20 of the Code of Ordinances of the City of Denton, Texas. The City of Denton, Texas expressly reserves unto itself and all other persons any and all legal remedies, civil or criminal, relating to excessive noise in connection with this annual event, and hereby disclaims any promissory, or equitable estoppel which might in any way impede the pursuit of such remedies by any person.

SECTION 2. This Ordinance shall become effective immediately upon its passage and approval, unless sooner repealed, modified, or rescinded.

PASSED AND APPROVED this the _____ day of _____, 2017.

CHRIS WATTS, MAYOR

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
AARON LEAL, INTERIM CITY ATTORNEY

BY:  _____