



Legislation Text

File #: RES PH 17-109, **Version:** 1

Approving the application of El Burrito Mercado for sound level variances in order to present amplified music and announcements for the Fiestas en La Placita Events on two Fridays, nineteen Saturdays, and twenty Sundays, from May 5, 2017 through September 17, 2017 at the LaPlacita Patio space at 175 Cesar Chavez Street.

WHEREAS, Chapter 293 of the Saint Paul Legislative Code was enacted to regulate the subject of noise in the City of Saint Paul; and

WHEREAS, §293.09 provides for the granting of variances from the sound level limitations contained in §293.07, upon a finding by the City Council that full compliance with Chapter 293 would constitute an unreasonable hardship on the applicant, other persons or on the community; and

WHEREAS, Milissa Diaz, President and Owner, who has been designated as the responsible person on the applications, has applied for three variances for the designated Friday, Saturday and Sunday Music Series at a requested level of 80 dBA at no specified distance, to present live mariachi or other bands with acoustics and speakers plugged into a 55 dBA restaurant speaker. Proposed times of operation are from 5:00 p.m. until 9:00 p.m. on Friday, May 5, 2017 and from 6:00 p.m. until 9:00 p.m. on Friday, September 15, 2017; from 6:00 p.m. until 9:00 p.m. for the Saturday, May 13, 2017 through Saturday, September 16, 2017 series, and varied hours between 1:00 p.m. until 6:00 p.m. for the Sunday series, May 7, 2017 through September 17, 2017 at the LaPlacita Plaza space at 175 Cesar Chavez Street; and

WHEREAS, if applicant is not granted the variances, applicant will not be able to present the outdoor music series at the LaPlacita Plaza space at 175 Cesar Chavez Street; and

WHEREAS, the Department of Safety and Inspections has reviewed the application and has made recommendations regarding conditions for the variance; now, therefore, be it

RESOLVED, that the Council of the City of Saint Paul hereby grants a variance to Milissa Diaz, subject to the following conditions:

- 1) The three variances will be for the Fiestas en La Placita music series with live mariachi or other bands from 5:00 p.m. until 9:00 p.m. Friday, May 5, 2017 and from 6:00 p.m. until 9:00 p.m. on Friday, September 15, 2017 for the Friday Music Series; from 6:00 p.m. until 9:00 p.m. for the Saturday, May 13, 2017 through Saturday, September 16, 2017 Saturday Music Series, and varied hours between 1:00 p.m. until 6:00 p.m. for the Sunday Music Series, May 7, 2017 through September 17, 2017 at the LaPlacita Plaza space at 175 Cesar Chavez Street.
- 2) All electronically powered equipment, PA systems, loudspeakers or similar devices used in conjunction with the music concert events must not exceed 80 dBA, as measured at 50 feet from the noise source during the proposed, specified hours for the designated Friday, Saturday and Sunday Music Series Event hours.
- 3) The applicant shall provide personnel and equipment who will provide sound level monitoring to ensure compliance with the sound level variance conditions.
- 4) All electronically powered equipment, PA systems, loudspeakers or similar devices shall be turned off no

later than 9:00 p.m. for the Friday, May 5, 2017 and Friday, September 15, 2017 Friday Music Series and Saturday, May 13, 2017 through Saturday, September 16, 2017 for the Saturday Music Series, and no later than 6:00 p.m. on the May 7, 2017 through September 17, 2017 for the Sunday Music Series.

FURTHER RESOLVED, that if three or more verified complaints from residents or businesses in the area regarding significant negative impact from the increased sound level variances for the Fiestas en La Placita music series hours, the three Friday, Saturday and/ or Sunday sound level variances may be amended or revoked by the council. Such reduction will not require a further hearing before council but shall be documented in a written communication to council from DSI; and be it

FURTHER RESOLVED, that any violations of the conditions set forth above on any of the dates may result in revocation of this variance for the remaining date(s), in addition to any criminal citation which might issue.

Milissa Diaz, President and Owner, has requested an exemption from the sound level limitations in Chapter 293.07 in order to present amplified music and announcements for the Fridays, Saturdays and Sundays Fiestas en La Placita Music Series. The series is scheduled from 5:00 p.m. until 9:00 p.m. on Friday, May 5, 2017, and 6:00 p.m. until 9:00 p.m. on Friday, September 15, 2017; 6:00 p.m. until 9:00 p.m. on Saturdays, May 13, 2017 through September 16, 2017, and varied hours between 1:00 p.m. until 6:00 p.m. on Sundays, May 7, 2017 through September 17, 2017 at the LaPlacita Patio space at 175 Cesar Chavez Street. Chapter 293.09 provides for the granting of variances from the sound level limitations contained in Chapter 293.07.

Was proper notice given? YES - See Attachments