

accessory uses and shall bind itself, lessees, permittees, concessionaires, renters, guests, users, and successors and assigns and all successors in interest in whole or in part to comply with the following operational and noise attenuation requirements and/or limitations. The applicant shall ensure through appropriate contracts, assignments and management rules that these restrictions are enforced and the applicant agrees to include the rules and regulations set forth in these conditions in any contract or assignment:

- a. As proposed by the applicant, the project authorized by this Conditional Use Permit includes the creation and operation of the proposed lounge, café, restaurant, café cart, and two (2) outdoor courtyard areas located on the roof of the second floor (3<sup>rd</sup> level) with the criteria listed below:
  - i. The food and beverage areas of the hotel covered in the CUP shall have a maximum occupant content of approximately 1,200 persons or any lesser such occupant content as determined by the Fire Marshal.
  - ii. The indoor portions of the project may operate until 5:00 AM and shall be permitted to have a DJ or music, whether live or recorded, whether amplified or non-amplified, which is played at a volume that is louder than ambient background music (defined as a sound level that does not interfere with normal conversation), seven (7) days per week, from 11:00 AM to 5:00 AM.
  - iii. The outdoor portions of the venue shall operate pursuant to the conditions listed below:
    - A. All outdoor areas of the venue(s) may operate until 1:00 AM, 7 days a week, and shall be permitted to have a DJ or music, whether live or recorded, whether amplified or non-amplified, ~~which is played at a volume that is louder than ambient background music (defined as a sound level that does not interfere with normal conversation)~~ as follows ~~seven (7) days per week~~:

<u>Times and Days of the Week</u>	Type of Permitted Music	DJ Permitted
<u>9:00 AM to 11:00 PM Monday to Sunday</u>	Ambient Only	Yes, Ambient Only
<u>1:00 PM to 8:00 PM Monday to Thursday</u>	<u>Ambient Only</u>	<u>Yes, Ambient Only</u>
<u>11:00 PM to 8:00 PM Friday to Sunday</u>	Ambient or Entertainment <u>Levels</u>	Yes, Ambient or Entertainment
<u>8:00 PM to 1:00 AM Monday to Sunday</u>	Ambient Only	Yes, Ambient Only
<u>1:00 AM to 9:00 AM Monday to Sunday</u>	None	No

Ambient background music is defined as a sound level that does not interfere with normal conversation. As noted above, entertainment levels, including music played at a volume that is louder than ambient background music, shall only be permitted during the specified timeframes, and shall comply with all other applicable conditions

contained herein.

- B. The house sound system shall be installed and set in such a manner as to limit the acoustical output of the system and have password protected security on all controls at all times in accordance with the design intent and recommendations of the sound system study submitted as part of this application. ~~The equipment and installation plan for the sound system, including the location of all speakers and sound level controls shall be submitted for the review and approval of the Planning Department. Prior to the issuance of the Business Tax Receipt (BTR), the sound system shall be tested under the supervision of a qualified acoustical professional and the City's sound study peer reviewer, to ensure that all aspects of the system's performance comply with the design intent and recommendations of the sound system study submitted as part of this application. This shall include the requirement that noise from the sound system shall not be plainly audible at the western balconies of the Arcadia House Condominium located at the southwest corner of 7<sup>th</sup> Street and Washington Avenue. A final report issued by such acoustical consultant shall be submitted to staff prior to the issuance of a BTR.~~
- C. ~~Additionally, 60 days after the issuance of a BTR, the sound systems in the facility shall be tested by a qualified acoustic professional, and a report shall be submitted to the Planning Department for review demonstrating that the system's performance still complies with the design intent and recommendations of the sound system study submitted as part of this application.~~
- D. At all times when any operations approved under this Conditional Use Permit are open, the Applicant shall continuously maintain a Manager on Duty (or equivalent) ("Manager on Duty"), on premises, to oversee the operations. Passwords for sound systems shall be provided only to the Manager on Duty. Only the Manager on Duty shall have access to house sound system maximum audio level controls. Only the Manager on Duty is authorized to allow access by verified installers, programmers, and repair personnel to the full complement of the Outdoor Speaker System's controls and adjustments, ensuring compliance with the sound and noise requirements, restrictions, and limitations in this Conditional Use Permit.
- E. The Outdoor Speaker System shall require the deployment of multiple small, closely spaced speakers driven at low individual volumes. The system design shall physically distribute sound uniformly within the listening area and prevent sound from being audible anywhere west of Washington Avenue.
- F. All outdoor speakers shall be oriented in such a way as to minimize sound propagation towards nearby residential buildings. A revised speaker plan shall be provided to staff and the City's sound study peer reviewer for review and approval within 15 days.

- G. Only the Applicant's approved outdoor speakers, as approved by this Conditional Use Permit, shall be used. All performers, including, but not limited to, DJ's, shall be required to connect to the Applicant's house sound system. The Applicant shall be required to inform all guest DJ's as to the requirements of this conditional use permit related to outdoor sound.
- H. The sound from the Applicant's sound system shall not be audible within any area to the west of Washington Avenue unreasonably loud at any time. Further, during permitted hours for outdoor music at entertainment levels, sound from the sound system shall not exceed 70 dBA and 80 dBC at the ground level on the west side of the Arcadia House Condominium (650 Pennsylvania Avenue) based on the average of 6 documented readings taken at equal intervals over the course of a minimum of 10 minutes (minimum 2 minute intervals) by properly calibrated and certified decibel meter.
- I. When sound exceeds ambient levels, the Applicant shall have staff continuously monitor the sound levels from the west side of Washington Avenue. Should the sound from the outdoor entertainment be audible anywhere west of Washington Avenue exceed the standard in subsection H above, the monitoring staff shall immediately notify the manager on duty who shall immediately take corrective action and lower the audio levels so that they are no longer heard from any area to the west of Washington Avenue to ensure compliance with standard in H above. The monitoring shall continue until such time that the Planning Board is confident that the Applicant is consistently complying with the requirements for Outdoor Entertainment in this conditional use permit and authorizes the Applicant to cease continuous monitoring as part of a Progress Report. Should there be subsequent violations, the Planning Board can reinstate the monitoring requirement as part of a Progress Report.
- J. Within 30 days of the revocation/modification hearing, the outdoor sound system shall be tested by a qualified acoustic professional, and a report shall be submitted to the Planning Department and the City's sound study peer reviewer for review and approval. Such report shall demonstrate that sound from any outdoor areas is not audible anywhere west of Washington Avenue complies with the standard in subsection H above and that the system's performance still complies with the design intent and recommendations of the sound system study submitted as part of this application. The applicant shall be responsible to cover the fees of the City's peer reviewer.
- K. The Applicant shall train staff that services outdoor areas on the sound-related conditions of this CUP in order to assist with enforcing sound limits.

L. A progress report regarding outdoor entertainment shall be scheduled 60 days from the revocation/modification hearing.

M. The Applicant shall incorporate additional sound attenuation measures into the building for outdoor areas, where possible.

- b. Delivery trucks shall only be permitted to make deliveries from the designated loading spaces contained within the property and from designated on-street loading zones for trucks not to exceed 20'-0" in length, as authorized by the Parking Department.

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