FIRST LIBERTY

February 5, 2026

Skip Henderson, Mayor
1111 1st Ave., Fl. 5
Columbus, Georgia 31901
Via US Mail &
[redacted]

Stoney Mathis, Chief of Police
510 10th Street, Fl. 4
Columbus, Georgia 31901
Via US Mail &
[redacted]

Clifton Fay, City Attorney
1111 1st Avenue, Fl. 3
Columbus, Georgia 31901
[redacted]

Re: Unconstitutional Ban on Amplified Speech Outside of Columbus Women's Health Organization

Dear Mayor Henderson, Chief Mathis, and Mr. Fay:

First Liberty Institute is the nation's largest law firm dedicated exclusively to defending and restoring religious liberty for all Americans. James Anthony contacted us about the City of Columbus' outright ban on his use of amplification on public ways outside of the Columbus Women's Health Organization ("CWHO") clinic, infringing on his fundamental right to convey his religious beliefs about abortion on public property.

Believing abortion is wrong, Mr. Anthony is compelled to share his views about the topic with others on public ways outside of the CWHO clinic in Columbus, Georgia. Located off Rosemont Drive, a public street, the clinic sits adjacent to a business park known as 3900 Rosemont Park.

Mr. Anthony wants to convince pregnant women walking to the clinic, along with their friends and family, not to go through with an abortion procedure due to the harm it would cause them as well as their babies. His primary and most effective means for communicating this message is to speak orally through amplification. He needs an amplifying device so he can be heard over ambient noise while maintaining a winsome, conversational tone.

For several months, Mr. Anthony regularly obtained permits, what § 14-205 of Columbus' Code of Ordinances calls "registration statements," from the city's chief of police to use amplified sound on the public sidewalk in front of the CWHO clinic. But in August of 2024, Chief Stoney Mathis began denying Mr. Anthony's request for registration statements to use amplified sound, stating: "Public Safety Issue! Noise Complaints From Neighbors!" Yet, Mr. Anthony had never been asked to turn down the volume of his device.

Following the denial of Mr. Anthony's permit requests for August 31, 2024 and September 7, 2024, Chief Mathis eventually informed Mr. Anthony that he would not approve his registration statements for amplified sound outside of the CWHO clinic for the foreseeable future. Hoping for a workable solution, Mr. Anthony offered to follow a decibel limit for amplified sound, but the chief rebuffed this option.

Chief Mathis has remained steadfast in the decision to deny Mr. Anthony permission to use amplified speech outside of the CWHO clinic, even though the plain wording of the registration statement requirement in the ordinance indicates the permit should be granted. Section 14-205(b)(2) states:

> The chief of police *shall* return to the applicant an *approved c*ertified copy of the registration statement unless he finds that:
>
> a. The conditions of the motor vehicle movement are such that use of the equipment would constitute a detriment to traffic safety; or
>
> b. The conditions of pedestrian movement are such that use of the equipment would constitute a detriment to traffic safety; or
>
> c. The registration statement reveals that the applicant would not be able to comply with the provisions of this article.

(emphasis added). The chief has failed to provide any reason outlined in the ordinance for refusing to extend a registration statement to Mr. Anthony.

Mr. Anthony's convictions did not wane. On August 11, 2025, he submitted to the Columbus Police Department another application for use of a small speaker outside of the CWHO clinic. The request was made several months after his call with Chief Mathis. He hoped the chief would reconsider his decision, but these hopes were dashed. The chief denied the application altogether, this time advising the city does not "approve amplified sound permits inside residential neighborhoods." The clinic is not located in a neighborhood.

The ongoing amplification ban effectively silences Mr. Anthony's message. Unable to use amplified sound outside the clinic, Mr. Anthony cannot be heard and understood due to competing noises, including those resonating from the clinic or the clinic's staff and volunteers.

Given the futility of his speech, Mr. Anthony has not returned to the CWHO clinic since he first denied a permit in August 2024. He fears any use of amplification will result in arrest and/or citation, prompting him to forsake his message and religious convictions. Frustrated by this untenable situation, Mr. Anthony is now

considering legal recourse. He submits this letter through counsel to resolve the conflict without resorting to litigation.

LEGAL ANALYSIS

The First Amendment Protects Mr. Anthony's Speech

The city's bar on Mr. Anthony's use of amplified sound to disseminate his protected religious expression in public violates his fundamental right to free speech.

The Free Speech clause of the First Amendment honors Mr. Anthony's desire to share a religious message. *See Capitol Square Review and Advisory Bd. v. Pinette*, 515 U.S. 753, 760 (1995); *see also Rosenberger v. Rector & Visitors of Univ. of Virginia*, 515 U.S. 819, 831 (1995) (religious viewpoints protected). This protection extends to beliefs about abortion. *Hill v. Colorado*, 530 U.S. 703, 715 (2000). The controversy associated with this topic does not dampen the protection afforded. *Id.* at 716. Moreover, the First Amendment covers the use of reasonable amplification as an integral aspect of free speech. *Saia v. New York*, 334 U.S. 558, 561–62 (1948) ("Loud-speakers are today indispensable instruments of effective public speech . . . . When a city allows an official to ban [loud-speakers] in his uncontrolled discretion, it sanctions a device for suppression of free communication of ideas.").

Columbus Sidewalks are Traditional Public Fora

Public rights-of-way in Columbus, Georgia, and specifically those near the CWHO clinic, are traditional public fora representing "quintessential" venues for speech. *One World Family Now v. City of Miami Beach*, 175 F.3d 1282, 1285 (11th Cir. 1999) (citation modified). These areas "occupy a special position in terms of First Amendment protection because of their historic role as sites for discussion and debate." *McCullen v. Coakley*, 573 U.S. 464, 476 (2014) (citation modified); *see also Hague v. CIO*, 307 U.S. 496, 515 (1939) ("Wherever the title of streets . . . may rest, they have immemorially been held in trust for the use of the public, and time out of mind, have been used for purposes of assembly, communicating thoughts between citizens, and discussing public questions."). Proximity to an abortion clinic does not affect the exalted status of the places. *See McCullen*, 573 U.S. at 476 (public ways and sidewalks outside abortion clinic are traditional public fora); *Madsen v. Women's Health Ctr., Inc.*, 512 U.S. 753, 761 (1994) (public streets, sidewalks, and rights-of-way near abortion clinic qualify as traditional public fora). Nor does proximity to residential neighborhoods. Even if the clinic was within a wholly residential area, this characterization could not make adjoining streets and sidewalks less than traditional public fora. *See Frisby v. Schultz*, 487 U.S. 474, 479 (1988) ("Our decisions identifying public streets and sidewalks as traditional public fora are not accidental invocations of a cliché, but recognition that whatever the title of streets and parks may rest, they have immemorially been held in trust for the use of the public.") (citation modified).

Columbus' Permit Scheme is an Unconstitutional Prior Restraint and the Amplification Ban is an Unreasonable Restriction

The city's permitting scheme for amplified sound, governed by § 14-205 of the city code, represents a prior restraint on speech because it prohibits any person from "install[ing], us[ing], or operat[ing] within the city a loudspeaker or sound-amplifying equipment . . . for the purposes of giving instructions, directions, talks, addresses, lectures, or transmitting music . . . upon any street, alley, sidewalk, park, or public property without first filing a registration statement and obtaining approval thereof." *See United States v. Frandsen*, 213 F.3d 1231, 1236–37 (11th Cir. 2000) ("A prior restraint on expression exists when the government can deny access to a forum before the expression occurs."); *see also Ward v. Rock Against Racism*, 491 U.S. 781, 749 n.5 (1989) ("the regulations we have found invalid as prior restraints have had this in common: they give public officials the power to deny use of a forum in advance of actual expression.") (citation modified). The classification is significant because a prior restraint "bear[s] a heavy presumption against constitutional validity," *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58, 70 (1963), representing "the most serious and least tolerable infringement on First Amendment rights." *Nebraska Press Ass'n v. Stuart*, 427 U.S. 539, 559 (1976). Courts require such permit schemes be narrowly tailored to serve a significant government interest and not delegate overly broad licensing discretion to a government official. *E.g., Forsyth Cnty., Ga. v. Nationalist Movement*, 505 U.S. 123, 130 (1992).

Section 14-205 is not narrowly tailored, burdening "substantially more speech than necessary to achieve the government's asserted interests," *Florida Preborn Rescue, Inc. v. City of Clearwater*, 161 F.4th 732, 747 (11th Cir. 2025). Further, the ordinance gives undue discretion to the Chief of Police, which is "inherently inconsistent with a valid time, place, and manner regulation because such discretion has the potential for becoming a means of suppressing a particular point of view." *Heffron v. Int'l Soc'y for Krishna Consciousness, Inc.*, 452 U.S. 640, 649 (1981).

Columbus' Permit Scheme Lacks Narrow Tailoring

Neither § 14-205 on its face, nor the city's artificial application of a ban on all amplified sound, are a reasonable time, place, and manner regulation.

First, Columbus' ban on amplified speech anywhere outside of the CWHO clinic does not advance a significant government interest. Article V of Columbus' Code of Ordinances, governing noise within city limits, establishes an objective measurement of decibel levels for many uses in substantial portions of the city. §§ 14-203, 14-204, 14-205(d)(3). Yet, the city singles out amplified expressive speech outside of the CWHO clinic for a permit requirement, practically enforcing a flat ban. Mr. Anthony was not asked to reduce his volume to an acceptable level prior to the imposition of the ban, and his proposal to work within a sound level range was rejected by Chief Mathis outright. So, activities such as "production, processing, cleaning, servicing, testing, operating, or repairing either vehicles, materials, goods, products, or devices"

are allowed near residential areas without the need for a permit so long as the noise does not exceed 60 db(A), § 14-204(i), Table A, but the use of an amplified device for expressive purposes in the same area requires a permit under § 14-205. Worse, in practice, it is outright banned, even when conducted near a business park. Unlike regulating actual noise levels, the blanket ban on amplifiers does not reflect true concerns about excessive noise, regulating too much protected speech in its wake. *See City of Ladue*, 512 U.S. at 52 (exemptions from a speech restriction "diminish the credibility of the government's rationale for restricting speech in the first place.").

Second, § 14-205 fails to be narrowly tailored because it applies to individuals and small groups with the same force as large public demonstrations. Courts considering application of permit requirements to small group or individual speech have unanimously held that such restrictions lack narrow tailoring. *See e.g.*, *Marcavage v. City of Chicago*, 659 F.3d 626, 635 (7th Cir. 2011) (observing growing and "powerful consensus" among circuits finding permit schemes applicable to groups of ten and under constitutionally suspect); *Cox v. City of* Charleston, 416 F.3d 281, 284 (4th Cir. 2005) (two or three people); *Knowles v. Waco*, 462 F.3d 430, 436 (5th Cir. 2006) ("handful of people"); *Parks v. Finan*, 385 F.3d 694, 705-06 (6th Cir. 2004) (lone individual); *Grossman v. City of Portland*, 33 F.3d 1200, 1206-07 (9th Cir. 1994) (six to eight people); *Cmty. for Creative Non-Violence v. Turner*, 893 F.2d 1387, 1392 (D.C. Cir. 1990) (two people); *Douglas v. Brownell*, 88 F.3d 1511, 1524 (8th Cir. 1996) (ten or more people); *see also Burke v. Augusta-Richmond Cnty.*, 365 F.3d 1247, 1255 n. 13 (11th Cir. 2004) (acknowledging "several courts have invalidated content-neutral permitting requirements because their application to small groups rendered them insufficiently tailored," and expressing doubt that permitting scheme would be narrowly tailored if it applied to five persons).

Third, the city's permitting scheme is not narrowly tailored because it requires a speaker to give the city advanced notice of the intended speech. Though § 14-205(b)(1) requires a five-day notice, which is constitutionally dubious, as is, the Columbus Police Department website goes exponentially farther: "All permit requests must be submitted at least 30 days in advance." Citizens not only enjoy a right to speak, but also a right to speak spontaneously. *Watchtower Bible and Tract Soc'y of New York, Inc. v. Vill. of Stratton*, 536 U.S. 150, 165–66 (2002). Courts consistently find advance notice requirements like Columbus' to be unconstitutional, even when applied to much larger expressive events. *See e.g.*, *Brownwell*, 88 F.3d at 1511 (striking down five-day advance notice requirement); *Grossman*, 33 F.3d at 1206 (invalidating a seven-day advance notice requirement). Imposing a notice period on one or a few individuals is especially infirm. *See Rosen v. Port of Portland*, 641 F.2d 1243 (9th Cir. 1981) (stating that even if a 24-hour advance notice requirement were justified for large groups, it sweeps too broadly in regulating small groups). Small groups do not generate a need for notice in advance—especially a thirty-day notice to stand on a sidewalk. *See, e.g., Santa Monica Food Not Bombs v. City of Santa Monica*, 450 F.3d 1022, 1034, 1041 (9th Cir. 2006) (explaining that advance notice requirements only further traffic, congestion, and security interests when applied to large groups).

Next, the permitting scheme fails the narrow tailoring test because, as a condition for approving a sound permit, it imposes an arbitrary and novel time restraint on speech, cutting off communication taking place in one location after five hours. In the context of time restraints, federal courts are guided by common sense, requiring good reason for prematurely ending speech. *See Beckerman v. City of Tupelo, Miss.*, 664 F.2d 502, 512 (5th Cir. 1981) (striking down an ordinance that forbade parades after 6:00 p.m. because "it remains light in Tupelo well past 6:00 p.m."); *Christ v. Town of Ocean City, Md.*, 312 F.Supp.3d 465 (D. Md. 2018) (relying on "a healthy dose of common sense" the court found an ordinance prohibiting street performances prior to 10:00 a.m. insufficiently tailored due to lack of evidence or reasoning to show public safety was of a heightened concern prior to 10:00 a.m.).

Common sense would be welcome here too. If an ordinance prohibiting a parade after 6:00 p.m. or a street performance before 10:00 a.m. is not narrowly tailored to a legitimate government interest, neither can one that haphazardly shuts down speech following a few hours. Mr. Anthony's speech does not impede traffic or cause any congestion concerns, and it does not become any more problematic with the passage of time. Severely limiting Mr. Anthony's time to use amplified speech in a public way does not advance any legitimate government interest.

Lastly, § 14-205 lacks narrow tailoring, and is therefore, an unconstitutional prior restraint on Mr. Anthony's speech, because the permit application prompts would-be speakers to reveal identity and information about the speech. This requirement infringes on the right to anonymous speech under the First Amendment. *Buckley v. Am. Constitutional Law Found., Inc.*, 525 U.S. 182, 199–200 (1999); *see e.g.*, *Watchtower*, 536 U.S. at 678 (invalidating permit requirement because application sought identity of speaker); *McIntyre v. Ohio Elections Comm'n*, 514 U.S. 334, 341–42 (1990) ("The decision in favor of anonymity may be motivated by fear of economic or official retaliation, by concern about social ostracism, or merely by a desire to preserve as much of one's privacy as possible.").

Columbus' Permit Scheme Delegates Undue Discretion to Decision-Maker

The city's policy—defined by § 14-205, as well as the consistent enforcement practices of the city police—is also constitutionally defunct because it grants too much discretion to the chief of police when deciding whether to approve or deny such permit. "Regulations which makes the peaceful enjoyment of freedoms which the Constitution guarantees contingent upon the uncontrolled will of an official—as by requiring a permit or license which may be granted or withheld in the discretion of such official—is an unconstitutional censorship or prior restraint upon the enjoyment of those freedoms." *Fort Lauderdale Food Not Bombs v. City of Fort Lauderdale*, 11 F.4th 1266, 1295 (11th Cir. 2021) (quoting *Shuttlesworth v. City of Birmingham*, 394 U.S. 147, 151 (1969)) (citation modified).

While § 14-205(b)(2) provides some restraint on the ability of the chief of police to disapprove a registration statement, in practice, Chief Mathis has unilaterally

decided to permanently deny all registration statements outside of the CWHO clinic for reasons completely extraneous to the justifications written in the ordinance. What speech is regulated is, therefore, impermissibly "left to the whim of the administrator." *Forsyth Cnty*. 505 U.S. at 133. Sanctioning this level of discretion emboldens government officials to use their own judgment in deciding who may and who may not speak. *City of Lakewood v. Plain Dealer Publ'g Co.*, 486 U.S. 750, 763–64 (1988); *see also Saia*, 334 U.S. at 560–62 ("The right to be heard is placed in the uncontrolled discretion of the Chief of Police . . . . A more effective previous restraint is difficult to imagine . . . . Annoyance at ideas can be cloaked in annoyance at sound.").

The arbitrary nature of the city's enforcement, and the danger of the same, is plainly exhibited in its denial of Mr. Anthony's latest application because his speech was within a "residential neighborhood." This reasoning contradicts the fact that the city had approved of Mr. Anthony's permits in the same location and for the same purpose for several months. Additionally, the justification lacks a factual basis, as the CWHO clinic is located in a business park that is officially zoned "Neighborhood Commercial." Likewise, according to the Columbus Police Department's website, the city is now imposing a $25 fee for each approved permit, regardless of the type of speech being permitted. This contravenes the express carveout for non-commercial speech provided in § 14-205(c). The city's discretion is so great, that it may circumvent statutory authority as it wishes.

Furthermore, § 14-205 fails to provide a fixed and reasonable time frame for the chief of police to decide to grant or deny a permit, allowing the application to sit indefinitely. This represents another form of unfettered discretion, as omitting a suitable time period for permit decisions creates the risk of suppressing otherwise permissible speech. *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215, 227 (1990). Such capricious enforcement is not tolerated by the First Amendment of our Constitution.

Columbus' Ban on Mr. Anthony's Amplified Expression Violates Georgia's Religious Freedom Restoration Act.

To boot, the city's treatment of Mr. Anthony represents a blatant violation of his rights under Georgia's Religious Freedom Restoration Act (GRFRA). GRFRA prohibits any government entity, including a municipality, from "substantially burden[ing] a person's exercise of religion even if the burden results from a rule of general applicability," except where the government agency demonstrates that the burden is (1) in furtherance of a compelling governmental interest; and (2) the least restrictive means of furthering that compelling governmental interest. Ga. Rev. Stat. § 50-15A-1. The city has no legitimate, much less compelling, interest in banishing all amplified sound—no matter the volume—from a public way in perpetuity. It certainly cannot be said that such a categorical prohibition would qualify as the least restrictive means for addressing any warranted concerns.

DEMAND

The city's decision to unconditionally bar Mr. Anthony's use of amplified sound to share his religious message on a traditional public forum violates his First Amendment right to free speech, as well as state law. To resolve this concern, Mr. Anthony requires that the city—either Mr. Mathis in his capacity as chief of police or the Council under § 14-205(b)(3)—immediately grant his permit application in full, and likewise, provide written assurance that it will no longer enforce its policy to outlaw all amplified sound within the city's public right-of-way outside of the CWHO clinic.

We ask that you respond to this letter in writing two (2) weeks from the date of this letter. If we do not hear from you by this date, we will assume the city intends to continue with its unconstitutional ban on Mr. Anthony's speech, leaving legal action as his sole recourse.

Sincerely yours,

Nathan W. Kellum
Senior Counsel
First Liberty Institute
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