ADVANCE SHEET HEADNOTE
September 8, 2025

2025 CO 50

No. 24SC216, *Hobbs v. City of Salida*—Noise Abatement Act—Statutory Interpretation—Public Health—Maximum Permissible Noise Levels—Preemption; Municipal Law

The supreme court holds that section 25-12-103(11), C.R.S. (2024), requires a political subdivision to use property for a statutorily authorized event for its permittees to qualify for exemption from the statewide noise-level limits set forth in Colorado's Noise Abatement Act ("NAA"), §§ 25-12-101 to -110, C.R.S. (2024). Here, the permittee's concerts weren't held on property used by the political subdivision for a qualifying purpose, so the political subdivision didn't have authority under section 25-12-103(11) to issue permits excusing the permittee's NAA violations. Accordingly, the supreme court reverses the judgment of the court of appeals and remands the case to the district court to enter a declaratory judgment in the plaintiff's favor.

The Supreme Court of the State of Colorado
2 East 14th Avenue • Denver, Colorado 80203

2025 CO 50

Supreme Court Case No. 24SC216
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 23CA73

Petitioner:

Matthew K. Hobbs,

v.

Respondents:

City of Salida; Christy Doon, in her official capacity as City of Salida Administrator; and Giant Hornet LLC d/b/a High Side! Bar and Grill.

Judgment Reversed
en banc
September 8, 2025

Attorneys for Petitioner:
First & Fourteenth PLLC
Christopher O. Murray
Laura J. Ellis
Julian R. Ellis, Jr.
Colorado Springs, Colorado

Attorneys for Respondents City of Salida and Christy Doon, in her official capacity as City of Salida Administrator:
Wilson Williams Fellman Dittman
Geoffrey T. Wilson
Erica Romberg
Louisville, Colorado

Attorneys for Respondent Giant Hornet LLC d/b/a High Side! Bar and Grill:
Anderson Law Group
Thomas H. Wagner
Salida, Colorado

Attorneys for Amicus Curiae Colorado Municipal League:
Robert D. Sheesley
Rachel Bender
Denver, Colorado

Attorneys for Amici Curiae Notes Live, Inc., d/b/a Venu Holding Corp., and Notes Live Real Estate and Development, LLC:
Kern Law, LLC
Tobin D. Kern
Littleton, Colorado

JUSTICE HOOD delivered the Opinion of the Court, in which **CHIEF JUSTICE MÁRQUEZ**, **JUSTICE BOATRIGHT**, **JUSTICE GABRIEL**, **JUSTICE HART**, **JUSTICE SAMOUR**, and **JUSTICE BERKENKOTTER** joined.

JUSTICE HOOD delivered the Opinion of the Court.

¶1 Giant Hornet LLC, d/b/a High Side! Bar and Grill, ("High Side") is located in the statutory city of Salida (the "City"). In the summer of 2021, High Side began hosting summer concerts on its outdoor patio. Recognizing that these concerts might violate the statewide statutory noise limits, High Side sought and received "amplified sound permits" from the City's administrator, which allowed it to exceed those limits during these concerts.

¶2 Matthew K. Hobbs, who lives near High Side, filed a suit against the City, its administrator (collectively, "Salida"), and High Side. The district court ultimately entered a declaratory judgment against Hobbs. On appeal, a split division of the court of appeals affirmed. *Hobbs v. City of Salida*, 2024 COA 25, ¶ 60, 550 P.3d 193, 204.

¶3 We now reverse the judgment of the court of appeals, and we remand the case to the district court to enter a declaratory judgment in Hobbs's favor.

I. Facts and Procedural History

¶4 Hobbs's property line is less than 600 feet from that of High Side. The properties are separated by a walking path, the Arkansas River, a railroad line, and a county road. In August 2021, Hobbs complained to Salida about the noise

emanating from High Side, alleging that the noise levels reached 83 db(A)[1] in his home during at least one of High Side's outdoor concerts. He argued that the City's noise-control ordinance violated the statewide standards set forth in Colorado's Noise Abatement Act ("NAA"), §§ 25-12-101 to -110, C.R.S. (2024), because it allowed Salida to issue permits to exceed the statewide standards. *See* City of Salida, Colo., Mun. Code, ch. 10, art. IX, § 10-9-80(a).

¶5 Over the next several months, Salida and High Side worked informally with Hobbs to address his concerns. In February 2022, Salida considered several revisions to its amplified sound permit application, including restricting the type, duration, and level of allowable noise, and imposing annual and monthly caps on the number of permitted events at each location. Salida ultimately banned noise after 10 p.m. (except on certain holidays or if approved by the City Council after a public hearing), limited the noise level emanating from any property to 85 db(A), and set an annual limit of sixty permitted events per location—significantly higher than the eighteen-permit limit proposed by the City's administrator. It didn't, however, set a monthly permit limit.

[1] The NAA defines db(A) as "sound levels in decibels measured on the 'A' scale of a standard sound level meter," § 25-12-102(2), C.R.S. (2024), and defines a decibel as "a unit used to express the magnitude of a change in sound level," § 25-12-102(3).

¶6 A few months later, Hobbs sued Salida and High Side. He sought a declaratory judgment recognizing that Salida's "policy and practice of issuing noise permits to High Side[] is contrary to [the NAA]" and voiding any previously issued noise permits. He also sought injunctive relief barring Salida from issuing amplified sound permits and prohibiting High Side from hosting outdoor concerts producing noise levels above the NAA's limits. In separate motions, Salida and High Side countered that they are exempt from the NAA's noise-level limits under section 25-12-103(11), C.R.S. (2024) ("subsection 103(11)"), and requested that the district court enter declaratory judgment in their favor. The district court granted Salida's and High Side's motions for judgment on the pleadings, concluding that subsection 103(11) "plainly directs that [the NAA] does not apply to cities and their permittees holding cultural and entertainment events."

¶7 A split division of the court of appeals affirmed. *Hobbs*, ¶ 60, 550 P.3d at 204. The division majority held that subsection 103(11) unambiguously "authorized Salida to issue the disputed permits to High Side." *Id.* at ¶ 30, 550 P.3d at 199. The majority reasoned that nothing in the exemption's plain language restricted a political subdivision from granting amplified sound permits even if the event wasn't on its property or a permittee wasn't a nonprofit entity. *Id.* at ¶¶ 32, 36, 550 P.3d at 200.

¶8 In dissent, Judge J. Jones asserted that the only "sensible way" to read subsection 103(11) is to interpret it as inapplicable to a political subdivision's permittee unless the permittee will stand in the shoes of the political subdivision; in other words, the permittee seeks to use property that will simultaneously be used by the political subdivision to hold a qualifying event. *Id.* at ¶ 74, 550 P.3d at 206 (J. Jones, J., dissenting). In his view, the division majority's interpretation "fail[ed] to account for [subsection 103(11)'s] language as a whole and that of the related statutory scheme, render[ed] language in that section superfluous, [led] to illogical and absurd results, and [wa]s inconsistent with the statute's legislative history." *Id.* at ¶ 65, 550 P.3d at 204.

¶9 We granted Hobbs's petition for certiorari review.[2]

II. Analysis

¶10 After identifying the standard of review and familiar principles of statutory interpretation, we discuss the NAA and the scope of subsection 103(11)'s exemption.

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[2] We granted certiorari to review the following issue:

> 1. Whether under subsection 25-12-103(11) the City may excuse violations of statewide noise limits set in Colorado's Noise Abatement Act by permitting for-profit entities to exceed the limits when holding "cultural, entertainment, athletic, or patriotic events" on private property, or [whether] such permits [are] invalid under the Act.

A. Standard of Review and Principles of Statutory Construction

¶11 "[W]e review questions of statutory interpretation de novo." *Bd. of Governors of Colo. State Univ. v. Alderman*, 2025 CO 9, ¶ 33, 563 P.3d 1205, 1212. Our "primary task" in statutory interpretation is to discern and effectuate the legislature's intent "by construing the statute as a whole, 'giving consistent, harmonious, and sensible effect to all of the statute's parts.'" *Burnett v. State Dep't of Nat. Res.*, 2015 CO 19, ¶ 12, 346 P.3d 1005, 1008 (quoting *St. Vrain Valley Sch. Dist. RE-1J v. A.R.L. ex rel. Loveland*, 2014 CO 33, ¶ 10, 325 P.3d 1014, 1019). Because we must respect the legislature's choice of language, we don't add words to or subtract words from a statute, and we avoid interpretations that would render words or phrases superfluous. *People ex rel. Rein v. Meagher*, 2020 CO 56, ¶ 22, 465 P.3d 554, 559–60.

¶12 If the statutory language is clear, we apply it as written. *Id.*, 465 P.3d at 560. Only if the language is ambiguous may we turn to other interpretive aids, "including the consequences of a given construction, the end to be achieved by the statute, and the statute's legislative history." *Godinez v. Williams*, 2024 CO 14, ¶ 20, 544 P.3d 1233, 1237 (quoting *McCoy v. People*, 2019 CO 44, ¶ 38, 442 P.3d 379, 389); *see also* § 2-4-203, C.R.S. (2024).

B. Colorado's Noise Abatement Act

¶13 The General Assembly enacted the NAA in 1971 to "establish statewide standards for noise level limits" based on zoning and time of day. § 25-12-101, C.R.S. (2024). It declared that "noise is a major source of environmental pollution" and that "[e]xcess noise often has an adverse physiological and psychological effect on human beings"; therefore, a violation of the statute's noise-level limits "constitutes a public nuisance." *Id.* The legislature conferred a private right of action on Colorado residents to enforce the statewide standards, § 25-12-104, C.R.S. (2024), and it left room for local governments "to adopt standards that are *no less restrictive*" than those provided by the NAA, § 25-12-108, C.R.S. (2024) (emphasis added).

¶14 Generally, the highest noise level permitted by the NAA in any zone is 80 db(A)[3]—5 db(A) *lower* than the noise level allowed by Salida's amplified sound permit.[4] *See* § 25-12-103(1). In commercial zones,[5] like the one where High Side is

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[3] The NAA allows an increase of 10 db(A) for a maximum of fifteen minutes in any one-hour period during the day. § 25-12-103(2).

[4] We note that "[a] one-to-one increase in decibels does not equate to a one-to-one increase in volume." *Freed v. Bonfire Ent. LLC*, 2024 COA 65, ¶ 29 n.2, 556 P.3d 817, 824 n.2. For instance, "a [3]-decibel [increase] is a [100%] increase . . . in the sound level, and a [10]-decibel [increase] is a [1,000%] increase . . . in the sound level." *Id.* (quoting § 25-12-102(3)).

[5] The NAA defines a "commercial zone" as, among other things, "[a]n area with local shopping and service establishments located within walking distances of the residents served." § 25-12-102(1)(b). High Side is a service establishment located

located, the statewide limits are even more stringent: noise levels may not exceed 60 db(A) during the day (between 7 a.m. and 7 p.m.) or 55 db(A) at night (between 7 p.m. and 7 a.m.). *Id.*

¶15 However, the NAA contains certain exemptions, including the following:

> This article is not applicable to the use of property by this state, any political subdivision of this state, or any other entity not organized for profit, including, but not limited to, nonprofit corporations, or any of their lessees, licensees, or permittees, for the purpose of promoting, producing, or holding cultural, entertainment, athletic, or patriotic events, including, but not limited to, concerts, music festivals, and fireworks displays. This subsection (11) shall not be construed to preempt or limit the authority of any political subdivision having jurisdiction to regulate noise abatement.

§ 25-12-103(11).

¶16 The crux of the parties' disagreement is whether subsection 103(11) protects only a lessee, licensee, or permittee (collectively, "subordinate entities") from a public nuisance lawsuit when the state, a political subdivision, or a nonprofit entity (collectively, "primary entities") uses the property to hold a qualifying event. Hobbs contends that a subordinate entity isn't eligible for the exemption unless its use of the property is associated with a primary entity's use of the property for a qualifying purpose. Salida and High Side counter that subsection 103(11) contains no such requirement and instead exempts subordinate entities if

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in the heart of Salida, which is a small city with many residents living within walking distance.

they use the property to hold a qualifying event and comply with local noise regulations.

C. The Scope of Subsection 103(11)'s Exemption

¶17 The parties claim, and the division majority and dissent concluded, that subsection 103(11)'s plain language *unambiguously* supports their respective interpretations. *Hobbs*, ¶ 30, 550 P.3d at 199; *id.* at ¶ 74, 550 P.3d at 206 (J. Jones, J., dissenting). But given their opposing interpretations, we see ambiguity.

¶18 We begin with the NAA's plain language. Subsection 103(11) can be broken down into four parts: the NAA doesn't apply (1) "to the use of property by" (2) the state, a political subdivision, or any other nonprofit entity (the primary entities) *or* (3) "any of *their* lessees, licensees, or permittees" (the subordinate entities) (4) for the qualifying events. (Emphasis added.)

¶19 The word "or" is generally used in the disjunctive sense and demarcates different categories. *See Kulmann v. Salazar*, 2022 CO 58, ¶¶ 32–33, 521 P.3d 649, 655; *Freed v. Bonfire Ent. LLC*, 2024 COA 65, ¶ 43, 556 P.3d 817, 826. Here, its placement creates two categories: (1) the primary entities, which encompass the state, a political subdivision, or any other nonprofit entity, and (2) the subordinate entities, which encompass the primary entities' lessees, licensees, or permittees.

¶20 It's also clear that the phrase "use of property by" modifies more than just the first primary entity (the state) because, when a sentence uses a parallel

construction of all nouns in a series, "a prepositive . . . modifier normally applies to the entire series." Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 147 (2012); *see also People v. Lovato*, 2014 COA 113, ¶ 24, 357 P.3d 212, 221 (explaining that an adjective before a series is presumed to modify each noun in the series unless another adjective appears).

¶21 The key question then is whether the primary and subordinate entities are part of the same series; that is, whether subsection 103(11) requires "the use of property by" a primary entity for a qualifying event, or whether property use by a subordinate entity to hold a qualifying event suffices if it has a lease, license, or permit from a primary entity.

¶22 We conclude that the second "or" (between the primary-entity category and the subordinate-entity category) and the use of the possessive "their" before the subordinate entities render the exemption reasonably susceptible to two interpretations. *See Freed*, ¶ 38, 556 P.3d at 826. On the one hand, it's plausible that this sentence structure indicates the legislature's intent to make the subordinate entities a subcategory of the primary entities, not a distinct series, which creates twelve distinct entities to which the modifier "use of property by" applies. *Id.* at ¶ 39 & n.4, 556 P.3d at 826 & n.4. Under this interpretation, a private permit holder would be exempt from the statewide standards "if it used private

property to host a qualifying event simply by virtue of being a political subdivision's permittee." *Id.* at ¶ 39, 556 P.3d at 826.

¶23 On the other hand, it's reasonable to interpret the second "or" and the possessive pronoun "their" that precede the subordinate entities, together with the commas that set them off, as creating a separate series. *See Hobbs*, ¶ 69 & n.6, 550 P.3d at 205 & n.6 (J. Jones, J., dissenting). In other words, the subordinate entities' "use of property" qualifies for the exemption only to the extent that they are associated with a primary entity's use of the property for a qualifying purpose. Under this interpretation, a private permit holder wouldn't be exempt from the statewide standards unless the political subdivision used the property for a qualifying purpose. *See Freed*, ¶ 40, 556 P.3d at 826.

¶24 Therefore, because both interpretations are reasonable, the statute is ambiguous, and so, we look beyond subsection 103(11)'s plain language to discern the legislature's intent. We employ standard tools to accomplish this.

¶25 *First*, we consider the NAA's stated purpose as we try to harmonize the broader statutory scheme. *See* § 2-4-203(1)(a), (g) (noting that if a statute is ambiguous, the court may consider the object sought to be attained and the legislative declaration or purpose to determine the legislature's intent). In enacting the NAA, the legislature declared that, because "noise is a major source of environmental pollution" that "threat[ens] . . . the serenity and quality of life in

the state," adversely impacts the "physiological and psychological" well-being of residents, and "contribut[es] to an economic loss to the community," it would "establish *statewide* standards for noise level limits," § 25-12-101 (emphasis added), that would be enforceable by "any county or resident of the state," § 25-12-104.

¶26 Indeed, the statutory scheme is comprehensive: it creates penalties for violations of an injunction, § 25-12-105, C.R.S. (2024); dictates how to measure noise, § 25-12-103(8)–(9); exempts certain activities and facilities from the noise limits, *e.g.*, § 25-12-103(7), (10), (12)(b) (exempting motor vehicle racing; "manufacturing, maintaining, or grooming machine-made snow"; and "noise emitted by electric transmission facilities"); and sets different standards for motor vehicle noise, *see* §§ 25-12-106(1), -110(1), C.R.S. (2024). It also dictates when local regulation is and isn't permitted. *Contrast* § 25-12-108 (stating the general rule that local governments may enact more restrictive noise regulations than the NAA provides), *and* § 25-12-107(1), C.R.S. (2024) (allowing local governments to ban the operation of motor vehicles that produce noise in excess of the NAA's motor-vehicle-specific standards), *with* § 25-12-103(12)(b) (prescribing that local governments may not set noise standards that are more restrictive than the NAA's for electric transmission facilities), *and* § 25-12-109(1), C.R.S. (2024) (prohibiting local governments from regulating noise from sport shooting ranges), *and* § 25-12-110(6), C.R.S. (2024) (prohibiting local governments from enacting

regulation that is more restrictive than the NAA's for noise emanating from off-road vehicles).

¶27 We conclude that the NAA's purpose and structure support Hobbs's and the division dissent's interpretation. Sheltering primary entities from public nuisance litigation when they use property to "promot[e], produc[e], or hold[] cultural, entertainment, athletic, or patriotic events" is consistent with this scheme. § 25-12-103(11). Such events enhance residents' quality of life and promote community engagement, *cf.* § 25-12-101 (enacting the statewide standards because excess noise threatens "the serenity and quality of life in the state"), and because the primary entities are either directly accountable to the public or constrained by a not-for-profit purpose, they're less likely to abuse the exemption for their own economic benefit, *cf. id.* (declaring that excess noise "contribut[es] to an economic loss to the community").

¶28 Conversely, extending this protection to anyone who leases property from, or has a license or permit from, any primary entity would exempt a far larger swath of the population and contradict the NAA's stated purpose. Under the division majority's construction, any for-profit entity that hosts a qualifying event on private property could exceed the statewide standards, provided it complies with any local noise regulations. It would be illogical for the legislature to create

such an elaborate statutory framework only to include an exemption that effectively "swallow[s] the rule." *Freed*, ¶ 53, 556 P.3d at 828.

¶29 *Second*, we assess the legislative history. *See* § 2-4-203(1)(c). The legislature added subsection 103(11) by amendment in 1987 in a bill titled, "An Act Concerning the Exemption of *Property Used by Not for Profit Entities* for Public Events from Statutory Maximum Permissible Noise Levels." Ch. 212, 1987 Colo. Sess. Laws 1154, 1154 (emphasis added). This title "suggest[s] that the drafters always intended to exempt only events on property used by governmental and nonprofit actors" (i.e., the primary entities). *Freed*, ¶ 47, 556 P.3d at 827; *see also City of Ouray v. Olin*, 761 P.2d 784, 789 (Colo. 1988) (stating that "the court may properly consider the title of the legislation" when statutory language is ambiguous).

¶30 Discussion before House and Senate committees and floor debates also support this interpretation. When introducing the bill, Representative Schauer explained that the then-existing NAA had "no exemption for, in essence, open air concerts"; so "[i]f someone, for instance, that surrounded Wash[ington] Park [in Denver] wanted to . . . enjoin the city from having . . . open air concerts at Wash[ington] Park, they could do it." Hearing on H.B. 1340 before the H. Fin. Comm., 56th Gen. Assemb., 1st Reg. Sess. (Apr. 1, 1987); *see also Freed*, ¶ 49, 556 P.3d at 827. The exemption, he said, would allow "open air concerts . . .

performed at . . . any property, *whether that be state, . . . city or county, or a nonprofit facility*," to exceed the NAA's noise-level limits. 2d Reading on H.B. 1340 before the H., 56th Gen. Assemb., 1st Reg. Sess. (Apr. 13, 1987) (emphasis added); *see also Hobbs*, ¶ 76, 550 P.3d at 207 (J. Jones, J., dissenting).

¶31 The hypothetical exemptions that the General Assembly discussed were consistent with Representative Schauer's statement, in that each involved a primary entity—the state, a political subdivision, or another nonprofit entity—using property for a qualifying purpose. *See, e.g.*, Hearing on H.B. 1340 before the H. Fin. Comm., 56th Gen. Assemb., 1st Reg. Sess. (Apr. 1, 1987) (statement of Rep. Thiebaut) (a fireworks show at the Pueblo State Fair Grounds); *id.* (statement of Rep. Tebedo) (a concert by the Air Force Academy Band at a city-owned park in Colorado Springs); Hearing on H.B. 1340 before the S. State Affairs Comm., 56th Gen. Assemb., 1st Reg. Sess. (Apr. 27, 1987) (statement of Sen. Bird) (a for-profit rock concert at the University of Colorado's Folsom Field); 2d Reading on H.B. 1340 before the H., 56th Gen. Assemb., 1st Reg. Sess. (Apr. 13, 1987) (statement of Rep. Groff) (a Denver Symphony Orchestra concert at Washington Park). No one suggested that the exemption would allow a for-profit entity to host an event on private property not used by a primary entity for a qualifying purpose. *Cf.* 2d Reading on H.B. 1340 before the H., 56th Gen. Assemb., 1st Reg. Sess. (Apr. 13, 1987) (statement of Rep. Kopel) (expressing concerns about the bill's breadth

because it "seem[ed] to . . . say that any of these organizations, *as long as it's . . . an entity not organized for profit*, would be able to" violate statewide standards when holding a qualifying event (emphasis added)). In short, the legislative history supports Hobbs's and the division dissent's construction of subsection 103(11).

¶32 *Third*, we evaluate the consequences of the division majority's interpretation. *See* § 2-4-203(1)(e). Despite acknowledging that a "lessee" is typically someone with "a leasehold interest in real estate," *Hobbs*, ¶ 42, 550 P.3d at 201, and that "licensee" and "permittee" are "also sometimes used in the real estate context," *id.* at ¶ 40, 550 P.3d at 201, the division majority defined "licensee" and "permittee" as "relat[ing] to the receipt of official permission to engage in some type of activity," their so-called "primary definition[s]," *id.*

¶33 Because subsection 103(11) involves "the use of property," and we seek to give "words grouped in a list . . . related meaning," *Coloradans for a Better Future v. Campaign Integrity Watchdog*, 2018 CO 6, ¶ 37, 409 P.3d 350, 356 (quoting *Third Nat'l Bank in Nashville v. Impac Ltd.*, 432 U.S. 312, 322 (1977)), we infer that the legislature intended for the subordinate entities to be defined by property law.

¶34 Moreover, we agree with Judge J. Jones that interpreting "permittee" without regard for subsection 103(11)'s land-use context renders statutory language superfluous and leads to absurd results. *Hobbs*, ¶ 73, 550 P.3d at 206 (J. Jones, J., dissenting). If we were to untether the adjacent term "licensees" from

traditional property law, there are two possible outcomes. "Licensee" could refer to anyone with any type of license—such as a professional license or a driver's license—from a primary entity. *See id.* But this interpretation leads to an absurd result: a vast segment of the population would be eligible for an amplified sound permit simply by possessing a license that may be completely unrelated to land use and noise abatement. Alternatively, "licensee" could refer to anyone who has secured a license from a primary entity to exceed the NAA's noise-level limits. However, this construction renders "licensee" coextensive with the term "permittee": "After all, what would be the difference between a license to exceed the statewide standards and a permit to do so?" *Id.* We reject this redundant construction.[6]

[6] We also reject Salida's argument that even if subsection 103(11) requires it to use the property for its permittees to qualify for the exemption, its issuance of amplified sound permits to private entities constitutes property use because the permits and the City's zoning regulations indicate its land-use preferences. Preferring a particular property use isn't the same as using the property for a particular purpose. *Contrast Prefer*, Black's Law Dictionary (12th ed. 2024) ("To give priority to."), *with Use*, Black's Law Dictionary (12th ed. 2024) ("The application or employment of something; esp[ecially], a long-continued possession and employment of a thing for the purpose for which it is adapted, as distinguished from a possession and employment that is merely temporary or occasional.").

III. Conclusion

¶35 We hold that the legislature intended subsection 103(11) to exempt the subordinate entities from the NAA's statewide noise limits only when they're associated with a primary entity's use of property to hold a qualifying event. High Side's concerts weren't held on property used by the City for a statutorily authorized purpose, so Salida didn't have the authority under subsection 103(11) to issue amplified sound permits to excuse High Side's NAA's violations. Therefore, we reverse the judgment of the court of appeals, and we remand the case to the district court to enter declaratory judgment in Hobbs's favor.