

AGENT OF CHANGE AND ENTERTAINMENT LICENSE RECOMMENDATIONS



MAY 1, 2017

MUSIC & ENTERTAINMENT DIVISION
ECONOMIC DEVELOPMENT DEPARTMENT

AUSTIN'S PROSPERITY ENGINE

The City of Austin's Economic Development Department (EDD) develops and leads innovative programs that increase the prosperity of all Austinites, our businesses, and our diverse communities.



Austin's Prosperity Engine

PEOPLE

We build programs that create a better future for all Austinites.

BUSINESSES

We help Austin's businesses and entrepreneurs reach their full potential.

COMMUNITIES

We enhance the livability and vitality of Austin's diverse local communities and neighborhoods.

City of Austin Development Department – *Austin's Prosperity Engine*

Prosperity for All People

Prosperity for
Business

Prosperity for
Communities

Cultural Arts

The Cultural Arts Division executes programs and initiatives that integrate arts into economic development, tourism, community development and commercial neighborhood revitalization strategies.

■ Cultural Arts Funding

Global Business

The Global Business Recruitment & Expansion Division increases jobs and investment in Austin through business attraction and by assisting local businesses with international expansion and trade.

■ Business
Expansion &
International
Program

Music & Entertainment

The Music & Entertainment Division develops and executes initiatives that accelerate the growth of Austin's music and entertainment industry infrastructure, by focusing on job creation, talent export, trade development, and industry revenue growth.

■ Music Venue
Assistance

Redevelopment

The Redevelopment Division facilitates innovative partnerships and projects to re-invigorate Austin's existing built environment, binding neighborhoods and business hubs into civic urban villages.

■ Commercial
Corridor
Enhancement

Small Business

The Small Business Division provides opportunities, programs and resources to Austin's local businesses and entrepreneurs, helping them expand their opportunities at home and throughout the world.

■ Family Business
Loan Program



MEETING AGENDA

- STAKEHOLDER PROCESS
- FINAL RECOMMENDATIONS
- NEXT STEPS



Stakeholder Process

COMMUNITY PRESENTATIONS

15 presentations to various stakeholder groups during
January and February 2017

- **Austin Neighborhoods Council**
(5 meetings)
- **Downtown Austin Alliance**
- **Downtown Commission**
- **Economic Prosperity Commission**
- **Music Commission**
- **RAZA Roundtable**
- **Real Estate Council of Austin**
- **Texas Restaurant Association**
- **Urban Land Institute**
- **Venues Summit**

Final Recommendations

AGENT OF CHANGE

Property Owner Acknowledgement – Property Owners, Venue Operators, Builders/Design Professionals

△ Properties that include:

- Residential will be required to acknowledge the proximity of entertainment venues and the owner's commitment to accommodate for sound
 - Required when currently-licensed entertainment venue or an entertainment venue licensed within the past 12 months is within 600 ft.
- Outdoor music venues will be required to acknowledge the proximity of nearby residents and the owner's commitment to accommodate for sound

✓ Keeping from current City Code	△ Change or addition	• Informational	✗ Not recommended
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Final Recommendations

AGENT OF CHANGE

Property Owner Acknowledgement (continued) – Property Owners, Venue Operators, Builders/Design Professionals

△ Music Office staff will:

- Train applicants in searching public databases
- Prepare after-hours sound level reports
- Sound mitigation best practices

✕ Not recommending specific building standards

- Lack of stakeholder support during 2013 public engagement process resulting from Council Resolution 20111215-060

✓	Keeping from current City Code	△	Change or addition	•	Informational	✕	Not recommended
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Final Recommendations

AGENT OF CHANGE

Disclosure by Property Owner – Property Owners, Real Estate Professionals

- △ Disclose to potential leasee or buyers of the proximity of licensed entertainment venues or residentially-zoned areas

- △ Area real estate professionals education campaign

✓ Keeping from current City Code	△ Change or addition	• Informational	✖ Not recommended
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Final Recommendations

AGENT OF CHANGE

Nuisance Determination – Venue Operators, Residents

- ✓ Maintain nuisance definition
- △ Additional language stating compliance with entertainment license will not constitute a nuisance by the City of Austin

✓	Keeping from current City Code	△	Change or addition	•	Informational	✖	Not recommended
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Final Recommendations

ENTERTAINMENT LICENSE

Transition from Permit to License – Venue Operators, City Staff

- △ Separate general restrictions from licensed business regulations
 - Recommended by City staff in July 2015 in response to Council Resolution 20140925-081
- ✖ Change citations from criminal to civil violation – criminal enforcement provisions, coupled with license compliance

✓	Keeping from current City Code	△	Change or addition	•	Informational	✖	Not recommended
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Final Recommendations

ENTERTAINMENT LICENSE

Internal Processes – Venue Operators, City Staff

- △ All entertainment license functions completed by the Music Office
- Streamline internal processes
 - Promote coordinated and consistent interpretation of regulations

✓	Keeping from current City Code	△	Change or addition	•	Informational	✖	Not recommended
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Final Recommendations

ENTERTAINMENT LICENSE

Applicability – Venue Operators

- ✓ Only outdoor music venues
 - Focused on a proactive approach to sound monitoring and business engagement
 - Two years after adoption, staff will recommend for City Council consideration whether requirement should be extended to indoor music venues
- △ Venues that play amplified sound and prop windows or doors open during hours of operation will be considered outdoor music venues

✓	Keeping from current City Code	△	Change or addition	•	Informational	✖	Not recommended
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Final Recommendations

ENTERTAINMENT LICENSE

Fees and Term – Venue Operators

- ✓ No change to current fees
 - Notification (\$560 if not performed by venue)
 - Sound impact plan (\$200)
 - Permit fee (\$261)

- △ Two-year term saves venues time and money

✓	Keeping from current City Code	△	Change or addition	•	Informational	✖	Not recommended
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Final Recommendations

ENTERTAINMENT LICENSE

Sound Levels – Venue Operators, Residents

- ✓ City-wide limitation of 85 dBA
- △ All permitting and licensing currently in Chapter 9-2 will move to Title 4
- ✓ Sound limitations on outdoor music venues
- ✓ Music Office ability to further limit sound levels and/or include a maximum dBC
- △ June 2018 – City Council consideration of recommended maximum dBC level and its applicability

✓	Keeping from current City Code	△	Change or addition	•	Informational	✖	Not recommended
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Final Recommendations

ENTERTAINMENT LICENSE

Sound Levels (continued) – Venue Operators, Residents

- ‘Sound’ heat map – Will be explored should resources become available
- Hearing concerns for venue staff – Best practices already include hearing protection
- Increased transparency of sound monitoring – Increase use web-accessible sound monitors
- ✕ Maximum sound levels are too high – decibels that exceed 85 are presumed unreasonable

✓	Keeping from current City Code	△	Change or addition	•	Informational	✕	Not recommended
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Final Recommendations

ENTERTAINMENT LICENSE

Notification Process – Venue Operators, Residents

- ✓ Keep existing requirement for single and multi-family residents and declared neighborhood associations within 600 ft.
- ✓ Keep notification processes, which include City staff mail out of notices (\$560 fee) or venue preparation (no fee)
- △ Research and develop more cost efficient mail out processes
- ✗ Notify residents beyond 600 ft. – Not recommended, as 600 ft. is more inclusive than requirements for most building permits and rezoning cases
- ✗ Notification to residents via utility billing – Lead time required (six months) does not align with time frame associated with the licensing process (30 days)

✓ Keeping from current City Code	△ Change or addition	• Informational	✗ Not recommended
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Final Recommendations

ENTERTAINMENT LICENSE

Good Neighbor Policy – Venue Operators, Residents

- ✓ Venue compliance already required, but completion of the rules process will provide clarity for venues
- △ Complete rules process no later than June 2018

✓	Keeping from current City Code	△	Change or addition	•	Informational	✖	Not recommended
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Final Recommendations

ENTERTAINMENT LICENSE

Interested Party Appeals – Residents, Venue Operators

- ✓ Keep definition of interested parties and timeframe for appeal
- △ Interdisciplinary team of City staff will review written objections submitted by interested parties
- △ Team will review the objections and either ratify, modify, or deny the sound impact plan/license conditions

✓ Keeping from current City Code	△ Change or addition	• Informational	✖ Not recommended
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Final Recommendations

ENTERTAINMENT LICENSE

Interested Party Appeals – Residents, Venue Operators

- △ Venues or interested parties may appeal to the City Manager
- Appeals not being considered by City Council – Application of City Council policy via the issuance of licenses is an administrative function.

✓ Keeping from current City Code	△ Change or addition	• Informational	✖ Not recommended
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Final Recommendations

ENTERTAINMENT LICENSE

Suspension and Revocation – Venue Operators

- ✓ Keep ability to suspend or revoke an entertainment license
- △ Venues will receive a preliminary hearing prior to suspension or revocation of license
- ✖ Interested parties should be notified of suspension or revocation hearings – Purpose of the hearing is to allow venue operators to explain the reason for non-compliance

✓	Keeping from current City Code	△	Change or addition	•	Informational	✖	Not recommended
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NEXT STEPS

Music Commission – May 1

Music Venue Meeting – May 8

Community Meeting – May 8

Arts Commission – May 15

Downtown Commission – May 17

Economic Prosperity Commission – May 17

Design Commission – May 22

ANC General Membership – May 24

PROPOSED CITY COUNCIL CONSIDERATION: June 8, 2017

A dark blue-tinted photograph of the Austin skyline, featuring the UT Tower and other skyscrapers, with a bridge and river in the foreground.

Thank you for your
continued support.



City of Austin
Economic Development Department – Music and Entertainment Division
Staff Recommendations

✓ Keeping from current City Code	△ Change or addition	• Informational	✗ Not recommended
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AGENT OF CHANGE

Property Owner Acknowledgement – Property Owners, Venue Operators, Builders/Design Professionals

- △ Property owners applying for building permits for properties that include:
 - Residential development/uses will be required to acknowledge the proximity of entertainment venues and the owner’s commitment to build accordingly to accommodate for sound.
 - This acknowledgement will be required when a currently-licensed entertainment venue or an entertainment venue licensed within the past 12 months is within 600 ft. of the project.
 - Outdoor music venues will be required to acknowledge the proximity of nearby residents and the owner’s commitment to build accordingly to accommodate for sound.
- △ Music Office staff will:
 - Develop a training document to assist applicants in searching public databases to determine whether these acknowledgements apply to their projects.
 - City staff will prepare an after-hours sound level report for all identified projects and provide this report to applicant.
 - City will research and make available sound mitigation best practices for consideration by development team professionals.
- ✗ Staff does not recommend the inclusion of specific building standards, based on lack of stakeholder support during 2013 public engagement process resulting from Council Resolution 20111215-060.

Disclosure by Property Owner – Property Owners, Real Estate Professionals

- △ Prior to signing lease or purchase contracts property owner must disclose to potential leasee or buyers of the proximity within 600 ft. of:
 - Licensed entertainment venues.
 - Residentially-zones areas.
- △ EDD will embark on an education campaign targeted at area real estate professionals regarding the disclosure.

Nuisance Determination – Venue Operators, Residents

- ✓ City Code will maintain the definition of a nuisance in reference to sound.
- △ City Code will also include additional language stating compliance with an entertainment license will not constitute a nuisance by the City of Austin, in reference to sound.

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City of Austin
Economic Development Department – Music and Entertainment Division
Staff Recommendations

✓ Keeping from current City Code	△ Change or addition	• Informational	✖ Not recommended
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ENTERTAINMENT LICENSE

Transition from Permit to License – Venue Operators, City Staff

- △ Clarify business requirements by separating general restrictions from licensed business regulations by moving sound ‘permitted’ activities from City Code Title 9 to Title 4 (Business Regulations and Permit Requirements).
 - Recommended by City staff in July 2015 in response to Council Resolution 20140925-081 and will result in easier interpretation by both venues and City staff.
- ✖ Change citations from criminal violation to civil violation – More effective if criminal enforcement provisions are maintained in addition to addressing compliance with license.

Internal Processes – Venue Operators, City Staff

- △ All functions associated with the issuance of an entertainment license will be completed by the Music Office.
 - Streamlining of internal processes eliminates the transfer of applications between the Development Services Department and the Music Office and will also result in a single point of contact for venues.
 - The Music Office will also assist with consistent and coordinated interpretations of regulations.

Applicability – Venue Operators

- ✓ The requirement to secure an entertainment license will only apply to outdoor music venues.
 - Focus on outdoor venues will allow Music staff to implement a more proactive approach to sound monitoring and business engagement.
 - Two years after adoption of these changes, staff will recommend for City Council consideration whether the requirement for an entertainment license should be extended to indoor music venues.
- △ Outdoor music venues include venue that play amplified sound and that prop windows or doors open during hours of operation will be classified as an outdoor music venue.

Fees and Term – Venue Operators

- ✓ Current fees associated with notification (\$560 if not performed by venue), sound impact plan (\$200) and permit fee (\$261) will remain in place.
- △ The term of the entertainment license will be two years, saving venues time and money.

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City of Austin
Economic Development Department – Music and Entertainment Division
Staff Recommendations

✓ Keeping from current City Code	△ Change or addition	• Informational	✗ Not recommended
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ENTERTAINMENT LICENSE

Sound Levels – Venue Operators, Residents

- ✓ The existing city-wide limitation of 85 dBA within Chapter 9-2 will remain in place.
- △ All permitting and licensing currently in Chapter 9-2 will move to Title 4.
- ✓ Maximum decibel limits for outdoor music venues will remain unchanged.
 - Consistent education
- ✓ Music Office staff will still have the ability to further limit sound levels and/or include a maximum dBC level via individual sound impact plans associated with particular venues.
- △ No later than June 2018, EDD staff will collect data and forward for City Council consideration a recommended maximum dBC level, and whether it should be applicable city-wide (Chapter 9-2) or only to music venues (Chapter 4-19).
 - Develop a ‘sound’ heat map of the city on an annual basis – The benefits of this type of map will be explored should resources become available.
 - Hearing concerns for venue staff – Venue best practices already include making hearing protection devices available for workers.
 - Increased transparency of sound monitoring – Music staff will increase use of web-accessible sound monitors.
- ✗ Maximum sound levels are too high – decibels that exceed 85 presumed unreasonable.

Notification Process – Venue Operators, Residents

- ✓ No recommended changes to the existing requirement that single and multi-family residents and declared neighborhood associations within 600 ft. of venue be notified during the application process.
- ✓ No recommended change to the processes to conduct the required notification, which includes City staff mail out of notices (\$560 fee) or venue preparation of mail out and City staff audit (no fee).
- △ City staff will research and develop more cost efficient mail out processes.
- ✗ Notify residents beyond 600 ft. – Not recommended, as 600 ft. already is more inclusive than notification requirements for most building permits and rezoning cases.
- ✗ Notification to residents via utility billing – Lead time required for inclusion of notices in utility bills (six months) does not align with time frame associated with the licensing process (30 days).

Good Neighbor Policy – Venue Operators, Residents

- ✓ The requirement for venues to comply with the Good Neighbor Policy is already included in the City code, but completion of the rules process will provide clarity on the expectations of venues to foster compatibility with adjacent properties.
- △ City staff will work to complete the rules process associated with this policy no later than June 2018.

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City of Austin
Economic Development Department – Music and Entertainment Division
Staff Recommendations

✓ Keeping from current City Code	△ Change or addition	• Informational	✖ Not recommended
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ENTERTAINMENT LICENSE

Interested Party Appeals – Residents, Venue Operators

- ✓ The current definition of interested parties (Sec. 9-2-55) and timeframe for appeal (Sec. 9-2-56) will remain unchanged.
- △ To promote consistency in the administration of City Council policy, an interdisciplinary team of City staff will review written objections submitted by interested parties. Representatives from departments associated with the concerns raised by the interested party will be included within the interdisciplinary team.
- △ The team will review the objections and either ratify, modify, or deny the sound impact plan/license conditions.
- △ Venues or interested parties may appeal the decision to the City Manager.
- Concerned with appeals not being considered by City Council and being only administrative process – City Council sets policy by adopting the parameters by which outdoor music venues may operate. The application of these parameters is an administrative function.

Suspension and Revocation – Venue Operators

- ✓ City staff will retain the ability to suspend an entertainment license for up to two weeks, should a venue receive four violations within a 45 day period.
- ✓ City staff may revoke an entertainment license should a venue receive any additional violations during a suspension period.
- △ Venues will receive a preliminary hearing prior to suspension or revocation of license.
- ✖ Interested parties should be notified of suspension or revocation hearings – The purpose of the hearing is to allow venue operators to explain the reason for non-compliance.