

ORDINANCE AMENDMENT REVIEW SHEET

Amendment: C20-2022-022 Live Music Venue and Creative Space Definitions

Description: Consider amendments to Title 25 of the City Code relating to live music venue and creative space definitions.

Background: Initiated by City Council Resolutions 20220728-094 and 20220901-089.

On July 28, 2022, the City Council adopted Resolution No. 20220728-094 initiating changes to establish the criteria to be a Live Music Venue to support the creation of a live music venue bonus and incentive program for new and existing venues. On September 1, 2022, the City Council adopted Resolution No. 20220901-089 initiating changes to develop and adopt clear land use definitions and create a bonus and incentive program for broadly defined creative spaces. These Resolutions are being addressed concurrently. After revised land use definitions are adopted, staff will bring forward additional code amendments to support the preservation, development, and prosperity of creative spaces, live music venues, and related arts/music districts.

Summary of Proposed Code Amendment

- The proposed amendment will modify two (2) land use definitions:
 - PERSONAL IMPROVEMENT SERVICES use is the use of a site for the provision of informational, instructional, personal improvement, and similar services ~~[of a non-professional nature]~~. This use includes music studios, martial arts studios, photography studios, driving schools, health or physical fitness studios, reducing salons, dance studios, and handicraft or hobby instruction.
 - THEATER use is the use of a site for presentation of plays, motion pictures, or other ~~[dramatic]~~ performances within a building. This use also includes live music performances.
- The proposed amendment will also add the following land use:
 - PERFORMANCE VENUE use is the use of a site for presentation of live music, plays, motion pictures, or other performances that includes the retail sale of alcoholic beverages for consumption on the premises.
 - Site development regulations for PERFORMANCE VENUE include the following:
 - A performance venue must allocate a minimum of 50 percent of gross floor area for production and programming space.
 - Production and programming space includes stages, green rooms, box offices and ticketing booths, audience areas, and equipment dedicated to producing plays, motion pictures, or other performances.

- A performance venue with a late-hours permit from TABC is subject to Article 10 (Compatibility Standards) unless the venue is eligible for a waiver under Article 10, Division 3 (Waivers).
 - For a performance venue with a late-hours permit:
 - all parking must be shown on the site plan that is required for a conditional use permit or compatibility standards waiver; and
 - compliance with the parking area setback described in Section 25-5-146 (Conditions Of Approval) is required.
 - In addition to the evaluation criteria in Section 25-5-145 (Evaluation of Conditional Use Site Plan), a conditional use permit may reduce the amount of gross floor area that can be dedicated as audience space. If the Land Use Commission determines that the surrounding uses support a reduced amount of gross floor area, the Land Use Commission shall identify the basis for its determination.
- PERFORMANCE VENUE use will be permitted in the following zoning district: Central Business District (CBD)
- PERFORMANCE VENUE use will be conditional in the following zoning districts:
 - Commercial Recreation (CR)
 - Community Commercial (GR)
 - Warehouse Limited Office (W/LO)
 - General Commercial Services (CS)
 - Commercial Highway Services (CH)
 - Limited Industrial Services (LI)
 - Downtown Mixed Use (DMU)
- The proposed amendment will also allow make the THEATER use allowed in more zoning districts.
 - THEATER use will be permitted in the following additional zoning districts:
 - Limited Office (LO)
 - General Office (GO)
 - Neighborhood Commercial (LR)
 - Commercial Recreation (CR)
 - Warehouse/Limited Office (W/LO)
 - THEATER use will be permitted in the following additional zoning districts:
 - Neighborhood Office (NO)
- The proposed amendment will also make revisions to Section 25-2-900 HOME OCCUPATIONS to support creative space live/work activities:
 - Allowing creative space home occupations to be conducted in an accessory home studio: A home occupation must be conducted entirely within the dwelling unit or an [one] accessory structure [~~garage~~].
 - Allowing participants in the home occupation who do not reside on-site for small scale creative uses, along with currently allowed medical, professional, administrative, and business office occupations: A person who does not reside on-site may participate in the home occupation if off-street parking is provided and home occupation is:
 - a medical, professional, administrative, or business office; or

- an art workshop or gallery; or
- a music, dance, or photography studio; or
- handicraft or hobby instruction.
- Allowing direct sale of creative products on site: [~~The sale of merchandise directly to a customer on the premises is prohibited.~~]
- Allowing dance studios as home occupations.

Proposed Amendment Text:

See attached background information.

Staff Recommendation: Pending

The Economic Development Department and Planning Department currently do not have any concerns with the proposed amendments. They are Council-recommended actions to allow for more opportunities for live music venues and creative spaces. They are necessary to support the further regulatory changes identified in City Council Resolutions 20220728-094 and 20220901-089, including development bonuses designated districts to support creative spaces.

Board and Commission Actions

April 8, 2023: Presented to Art and Music Joint Commission

June 21, 2023: Recommended as amended by the Codes and Ordinances Joint Committee on a vote of 5-1 with Commissioner Greenberg voting nay

July 25, 2023: Recommended as amended by the Planning Commission on a vote of 10-0 with two Commissioners off the dais or absent.

Council Action

June 8, 2023: Schedule a public hearing, with a suggested date of July 20, 2023

July 20, 2023: Postponement of public hearing to September 14, 2023

September 14, 2023: To hold a public hearing

Sponsor Department: Economic Development Department

City Staff: Donald Jackson, DonaldE.Jackson@austintexas.gov, (512) 974-2214



Date: July 25, 2023

Attention: Planning Commission

Subject: July 25th, 2023, Agenda Item 22,
C20-2022-022 Live Music Venue & Creative Space Definitions

Commissioners:

The Joint Arts & Music Urban Core Land Use Working Group was formed to study and provide recommendations for City-involved real estate development. The Arts and Music Commissions recognize that land use planning is immensely critical to the sustainability and growth of Austin's music and cultural arts economies.

Our working group has identified the combination of zoning and developer incentives as a powerful tool for preserving and developing creative space in Austin. We have carefully reviewed and discussed the proposed plan presented by Donald Jackson of the Economic Development Department regarding zoning categories and cultural districts.

We strongly support the Live Music Venue and Creative Space Definitions, amendments to City Code Title 25 (LDC) related to live performance venues, creative spaces, and live/work units. We ask that the Planning Commission approve of these amendments. In addition, we support City staff's work to establish a future Creative Space Bonus Program and look forward to ongoing communications with staff and community stakeholders.

It is our belief that creative spaces make good neighbors and can be beneficial to the adjacent neighborhoods. In discussions with central neighborhood stakeholders, we have learned there is support for live music venue amendment to the code, but a preference for indoor performance. In your discussion tonight, please carefully consider how to add an indoor provision, while exempting the Palm District which already includes outdoor music performance venues along Red River and at Waterloo Greenway.

Thank you for your consideration of this measure.
Sincerely,

Joint Arts and Music Urban Core Land Use Working Group

Lauryn Gould, Music Commissioner

Acia Gray, Arts Commissioner

Monica Maldonado, Arts Commissioner

Anne-Charlotte Patterson, Music Commission vice-chair

Heidi Schmalbach, Arts Commission vice-chair

Mark Gilbert, Arup Development Consultancy

Gian Michael Piano, Presidium Real Estate

Stephani Stanley, Kadence Twelve Productions

Ryan Steglich, Steglich Consulting, Here Today Gone Tomorrow

Cc: Nagavalli Medicharla Music Commission Chair, Celina Zisman Arts Commission Chair,
Donald Jackson Economic Development Department



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Austin, TX 78701

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24 July 2023

RE: Case Number: C20-2022-022 - Proposed Amendments to City Code Title 25 (Land Development Code),
Live Music Venue and Creative Space Definitions

Donald Jackson, Case Manager
City of Austin
Austin, Texas

Members of the Planning Commission,
Honorable Mayor and Mayor Pro-Tem, Distinguished City Council Members:

The Old Austin Neighborhood Association (OANA) supports the current iteration of the proposed amendments to the Land Development Code (LDC) definitions referenced above as the first phase in the process of implementing City Council Resolutions No. 20220728-094 and No. 20220901-089 in order to “(h)elp mitigate rent and displacement pressure on creative spaces and live music venues by better defining the uses and permitting them in more zones”.

The neighborhoods encompassed within OANA’s organizational boundaries are truly some of Austin’s original residential neighborhoods. Over the decades the neighborhood was transformed from residential use to primarily commercial use, especially small offices within our historic building fabric, but a more mixed-use pattern is evolving. Since the 1970s, the Old Austin Neighborhood Association has been working to preserve and promote the livability of this historic downtown neighborhood. We have encouraged and supported the ongoing increase of residential use within our neighborhood, and this expansion of creative use opportunities will contribute to a compact and diverse urban experience.

OANA believes that a harmonious balance can be achieved between residential uses and commercial and entertainment uses to the benefit of all. We want to thank the City Staff for working with us to address some initial concerns we had on the proposed expansion of live music venues and creative space definitions, specifically the potential for what we perceived as unintended negative consequences.

Thank you all for your service to our shared community. My regards...

Sincerely,

Ted Siff, President

Board of Directors

Ted Siff, President

Perry Lorenz

Austin Stowell

[Angela Hovis](#)

Blake Tollett, Secretary

Charles Peveto

Diana Zuniga

Ray Canfield, Treasurer

Michael Portman

Perry Horton

Katie Jackson

Chris Riley

[Vicki Ford](#)

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Exhibit A - Chair Shaw and Vice-Chair Hempel Amendments

Amendment 1:

Allow performance venue as a conditional use in CS-1 zones.

Amendment 2:

§ 25-2-XXX SITE DEVELOPMENT REGULATIONS FOR PERFORMANCE VENUES (page 3 of 5).

C (4) In addition to the evaluation criteria in Section 25-5-145 (Evaluation of Conditional Use Site Plan), a conditional use permit may allow an outdoor entertainment area.

Amendment 3:

§ 25-2-900 HOME OCCUPATIONS.

(D) A person who does not reside on-site may participate in the home occupation if ~~the off-street parking is provided and~~ home occupation is: (a list of occupations to follow)