



Date: January 29, 2019

To: City Council Study Session

From: Jane Hudson, Interim Director, Planning & Community Development
Jeanne Snider, Assistant City Attorney

Subject: Zoning Ordinance Amendments – Outdoor Music Venue/Outdoor Entertainment Definitions

BACKGROUND

On January 10, 2019, Staff made a presentation to the City Council Oversight Committee regarding the Zoning Ordinance, Outdoor Music Venue/Entertainment and the noise ordinance. City Council Oversight requested City Staff prepare a recommendation for the January 29, 2019, Council Study session.

Attached to this memorandum is the January 2019 memorandum with information that presents background information and timeline of discussions of the noise ordinance, and specifically live outdoor entertainment.

DISCUSSION

The Noise Ordinance is in place to set limitations of sound levels/decibels in each use district but there is nothing in the Zoning Ordinance that explicitly allows the use of outdoor entertainment, whether it is live or amplified recorded music. Feedback from the City Council Oversight Committee indicated a desire that Staff draft language addressing the use and regulation of live outdoor entertainment in the Zoning Ordinance.

Live Entertainment Venue is currently defined in two areas of the Zoning Ordinance.

“**ACCESSORY.** ... Live entertainment, when offered in conjunction with an otherwise unrelated legal commercial use, will be considered an accessory use when it constitutes no more than ten (10) percent of the gross monthly revenue of the establishment.”....

“**LIVE ENTERTAINMENT VENUE.** An establishment where a major component of the business includes live or electronically amplified music, dancing, or other entertainment, and which may impose an admission charge or cover charge to observe that entertainment. Nightclubs, bars, and dance halls are typical uses within this category. This category shall not include, in any manner, any Adult Entertainment Establishment.”

Changes to the definitions of Live Entertainment should include clarification of indoor vs. outdoor areas allowing live entertainment as well as including a definition of

office memorandum

“outdoor music venue/outdoor live entertainment.” Based on Council feedback, Staff proposes the following definitions:

“**ACCESSORY.****Indoor** Live entertainment, when offered in conjunction with an otherwise unrelated legal commercial use, will be considered an accessory use when it constitutes no more than ten (10) percent of the gross monthly revenue of the establishment.”...

“**LIVE ENTERTAINMENT VENUE.** An establishment where a major component of the business includes live or electronically amplified music, dancing, or other entertainment, and which may impose an admission charge or cover charge to observe that entertainment. Nightclubs, bars, and dance halls are typical uses within this category **and all activities are located within a fully enclosed building.** This category shall not include, in any manner, any Adult Entertainment Establishment.”

“OUTDOOR MUSIC VENUE/OUTDOOR LIVE ENTERTAINMENT. A commercial venue or property where sound equipment is used to amplify live music that is not fully enclosed by four (4) permanent, solid walls and a roof. Such venue or property shall comply at all times with the provisions of Chapter 10, Article III of the City Code.

In addition to amending and adding these definitions to the Zoning Ordinance, feedback from the majority of Oversight Committee indicated a desire to restrict Outdoor Live Entertainment to the C-3, Intensive Commercial District, and only upon approval of a Special Use. To make application with the Planning Department for a Special Use applicants are required to submit an application with a list of the names and mailing addresses of all property owners of record within three hundred fifty (350) feet of their request. The list must be certified as current and accurate by a registered professional engineer, attorney, bonded abstractor or registered land surveyor. A radius map delineating the appropriate notice area is furnished by the Planning Department GIS Division. Fees required for a Special Use application, with no change in a zoning district, is \$410. Fees for a PUD or SPUD are \$510. For Special Use requests there is a \$125 fee for the Pre-Development Information Meeting which allows adjacent property owners to address any concerns. This Pre-Development requirement does not apply to PUD or SPUD application if the area to be rezoned is less than 40-acres.

Special uses are ultimately included on Council’s agenda for review and approval. This would allow the Council the opportunity to review each application and consider its potential impact on adjacent properties.

Staff proposes the following addition to the Section 425.1 of the Zoning Ordinance to allow Outdoor Live Entertainment in C-3 zoning, and only upon approval of a Special Use.

SEC. 425.1 C-3, INTENSIVE COMMERCIAL DISTRICT

3. Special Use. The following uses may be permitted, after review, in accordance with Section 434.1: (O-9596-19; O-0304-29; O-1213-17; O-1314-13)

(f) Outdoor Music Venue/Outdoor Live Entertainment.

RECOMMENDATION

As with recent applications, if an applicant wants to provide an “outdoor music venue/outdoor entertainment” area the applicant should be required to request approval of zoning for Special Use (C-3 District), PUD (Planned Unit Development), SPUD (Simple Planned Unit Development) or CCPUD (Center City Planned Unit Development) giving City Council the opportunity to review each application on its own merits and consider possible impacts on surrounding land uses. Unless otherwise approved in the zoning request an applicant is required to meet the Noise Ordinance – maximum decibel levels.

Residential uses and businesses located around entertainment venues have a right to be protected from the impacts live/amplified outdoor music venues can create. The Zoning Ordinance has not been updated; it lacks the ability to control or monitor some of the newer issues and uses establishing in Norman. The authors of the Zoning Ordinance did not foresee the need to account for protection of adjacent properties from live/amplified outdoor entertainment venues as the use was not present at the time the Zoning Ordinance was written.

cc: Mary Rupp, Interim City Manager
Kathryn Walker, Interim City Attorney