

**CITY COUNCIL OVERSIGHT COMMITTEE MEETING**

**MUNICIPAL BUILDING CONFERENCE ROOM  
201 WEST GRAY**

**THURSDAY, APRIL 11, 2019**

**4:00 P.M.**

- 1. CONTINUED DISCUSSION REGARDING SHORT TERM RENTALS (COMMERCIAL HOME SHARING SUCH AS AIRBNB, HOME AWAY, AND VRBO).**
- 2. CONTINUED DISCUSSION REGARDING THE CITY OF NORMAN NOISE ORDINANCE.**



**Date:** April 11, 2019  
**To:** City Council Oversight Committee  
**From:** Jeanne Snider, Assistant City Attorney  
**Subject:** Short-Term Rentals

### **BACKGROUND**

On February 14, 2019, City Staff presented a draft ordinance for licensing requirements, fees, required information to be posted, license renewal and license denial, suspension or revocation for Short-Term Rentals. After discussion regarding Special Use, details such as age requirements, fees, insurance, parking and other issues related to the short-term rental licensing, City Staff was directed to move forward with contracting with the monitoring service, Host Compliance.

### **DISCUSSION**

Staff originally contacted the monitoring service, STR Helper. After the February 14, 2019, Oversight meeting, STR Helper advised Staff they had merged with Host Compliance. Host Compliance LLC is a privately held company started in San Francisco, CA. Created through the merger of the industry's two leading companies (Host Compliance and Bear Cloud Software aka STR Helper), Host Compliance combines the "DNA" and technical acumen of Silicon Valley with STR Helper's founding team's decades of combined personal experience from serving as Mayors, City Managers, Tax Collectors and Code Enforcement Officers in communities faced with the challenges created by the rapid rise of the sharing-economy and short-term vacation rentals. Host Compliance has more than 230 local government clients, including major cities such as Austin, TX; Charleston, SC; Denver, CO; Las Vegas, NV; Minneapolis, MN; Nashville, TN; Orlando, FL; Portland, ME and San Antonio, TX,

Our principal contact with STR Helper, John Spencer, is now a Sr. VP with Host Compliance. An Agreement was executed on March 25, 2019, for the Discovery Module, which is the address identification process of the monitoring service. Host Compliance's Director of Customer Success contacted the City on March 26, 2019, and scheduled a Kick-off conference call for April 1, 2019.

On April 1, 2019, Staff (Jeanne Snider and Mindy Aynes) participated in the Kick-Off conference call. The Customer Success Representative reviewed and explained the Project Plan and advised what data needs to be acquired and forwarded to Host Compliance. Staff forwarded the required information to Host Compliance on April 2, 2019. Once Host Compliance receives the information (the review process will take approximately two to three weeks), a Launch Meeting will be scheduled to review the results of the initial address identification work, discuss the next steps, review the dashboard and answer questions.

cc: Mary Rupp, Interim City Manager  
Kathryn Walker, Interim City Attorney  
Anthony Francisco, Finance Director

office memorandum



**Date:** April 11, 2019

**To:** City Council Oversight Committee

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

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

### **BACKGROUND**

On January 29, 2019, Staff presented information on the Zoning Ordinance, Outdoor Music Venue/Entertainment and the Noise Ordinance. At the Study Session, Council asked that the item be placed on the City Council Oversight Committee agenda for additional discussion.

### **DISCUSSION**

There are two issues for discussion: 1) Noise Ordinance, and 2) Zoning Ordinance.

#### **1. Noise Ordinance**

The Noise Ordinance, found in Chapter 10 of the City Code, was adopted by Ordinance No. O-7778-9 in 1977 and has been amended approximately 10 times since adoption. One of the amendments added L1 (first percentile sound level) to the use district noise level chart. Other amendments varied from responsibility of enforcement to fine amounts. The decibel levels have never been amended. The Noise Ordinance sets limitations of sound levels/decibels in each use district and provides an enforcement mechanism for noises that exceed the prescribed decibel levels or constitute a prohibited noise. The Norman Police Department is the controlling agency for the Noise Ordinance and they receive all calls for such issues.

Discussion began in September 2016 regarding the noise ordinance/outdoor live entertainment with the application for Special Use to allow outdoor live entertainment on the back patio at Puebla Tacos y Tequileria. This discussion continued through 2017 and 2018. The application for Special Use at Puebla Tacos y Tequileria was tabled indefinitely at City Council due to the lack of regulatory controls and definitions within the Zoning Ordinance to address “outdoor” live entertainment. The enforcement mechanism for noises that are either prohibited or exceed prescribed decibel levels found in the noise ordinance was not the focus of the discussion because the use, live entertainment in an outdoor area, was not allowed by the zoning ordinance. After the opening of Hollywood Corners, the discussion of noise and outdoor live entertainment continued.

office memorandum

## **Noise Variance Permit**

Although the noise ordinance sets decibel levels for noises, provision is made in the Code to allow someone to lawfully exceed the levels under certain circumstances. The Code of Ordinances, Article III. Noise Control outlines the requirements for a Noise Permit. Applications for a permit for relief from the noise restrictions may be made to the City Manager or authorized representative (in this case Norman Police Department). The application shall contain all conditions for which the permit has been granted, including but not limited to the effective dates, time of day, location, sound pressure level, or equipment limitations. The relief from the noise restrictions requested may be granted on good and sufficient showing; additional time is needed for the applicant to alter or modify the activity/operation to comply, the activity/operation or noise is temporary and cannot be done in compliance with the ordinance, and there is not a reasonable alternative available to the applicant for the event. With the variance, additional conditions or requirements may be given to minimize adverse effects on the community or surrounding neighborhood. A permit can be approved for a maximum of up to four consecutive days, and no more than seven permits per site annually. However, an applicant may petition for additional permits on appeal to City Council.

In the past three years, Staff has discussed possible amendments to the adopted Noise Ordinance. Nothing has been determined as a specific change needed to the Noise Ordinance; the issue has been whether to allow outdoor live entertainment. Once outdoor live entertainment is allowed, the Noise Ordinance is sufficient to provide a mechanism to keep the noises within reasonable decibel levels. Staff suggests the Noise Ordinance, Article III, Noise Control, remain with no changes at this time and proceed with amending the Zoning Ordinance as noted in the section below.

## **2. Zoning Ordinance**

Citizens, business owners and Staff refer to the Zoning Ordinances to regulate uses in the City of Norman. However, as currently adopted/written, the Zoning Ordinance does not allow the use of outdoor entertainment whether it is live entertainment or amplified recorded music or to define or regulate outdoor live entertainment. The use and regulation of live outdoor entertainment needs to be defined and regulated in the Zoning Ordinance.

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 “outdoor music venue.”

### **Existing definitions 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.”

The definitions do not differentiate between indoor vs. outdoor live entertainment and create a loophole in the regulatory powers of the Zoning Ordinance.

### **Possible amendments to the Zoning Ordinance**

The Zoning Ordinance could be amended to allow for outdoor live entertainment as a Special Use in the C-3, Intensive Commercial District. This would allow City Council the opportunity to review each application for outdoor live entertainment on its own merits and consider other uses that may be impacted by the outdoor live entertainment.

The Zoning Ordinance should require Special Use in C-3, Intensive Commercial District for outdoor music venue/outdoor live entertainment venues and venues that are not fully enclosed by four permanent, solid walls and a roof as set out below. In addition changes to the definitions of “Accessory” and “Live Entertainment Venue” are needed. Finally, addition of a new definition for “Outdoor Music Venue/Outdoor Entertainment” should also be added.

#### 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. A commercial venue or property where sound equipment is used to amplify sound that is not fully enclosed by four (4) permanent, solid walls and a roof.**

**“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, enclosed**

**by four (4) permanent, solid walls and a roof.** This category shall not include, in any manner, any Adult Entertainment Establishment.”

**“OUTDOOR MUSIC VENUE/OUTDOOR ENTERTAINMENT. A commercial venue or property where sound equipment is used to amplify sound that is not fully enclosed by four (4) permanent, solid walls and a roof. Special Use Application Process. Fees and Review and Evaluation Criteria**

To make application with the Planning Department for 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. Fee required for a Special Use with no change in a zoning district is \$410. Fees for a PUD or SPUD are \$510. There is also a \$125 fee for the Pre-Development Information Meeting which allows adjacent property owners the opportunity to meet with the applicant, review the proposal and address any concerns.

The Review and Evaluation Criteria found in Sec. 22:434.1(b) states the Planning Commission shall review and evaluate any "Special Use" proposal and recommend to the City Council using the following criteria:

- (1) Conformance with applicable regulations and standards established by the Zoning Regulations.
- (2) Compatibility with existing or permitted uses on abutting sites, in terms of building height, bulk and scale, setbacks and open spaces, landscaping and site development, and access and circulation features.
- (3) Potentially unfavorable effects or impacts on other existing or permitted uses on abutting sites, to the extent such impacts exceed those which reasonably may result from use of the site by a permitted use. (NOTE: Throughout this Section, "Permitted Use" means any use authorized as a matter of right under the applicable zoning district.)
- (4) Modifications to the site plan which would result in increased compatibility, or would mitigate potentially unfavorable impacts, or would be necessary to conform to applicable regulations and standards and to protect the public health, safety, morals, and general welfare.
- (5) Safety and convenience of vehicular and pedestrian circulation in the vicinity, including traffic reasonably expected to be generated by the proposed "Special Use" and other uses authorized and anticipated in the area, considering existing zoning and land uses in the area.

(6) That any conditions applicable to approval are the minimum necessary to minimize potentially unfavorable impacts on nearby uses and to ensure compatibility of the proposed "Special Use" with existing or permitted uses in the surrounding area.

### **RECOMMENDATION**

City Staff recommends the definitions of “accessory” and “live entertainment venue” be amended and include outdoor music venue/outdoor live entertainment as set forth above. In addition, Staff recommends, 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 surrounding land uses. Unless otherwise approved in the zoning request, an applicant is required to meet the Noise Ordinance – maximum decibel levels and number of noise permits allowed annually.

Residential uses and businesses located around entertainment venues have the right to be protected from the impacts live/amplified outdoor music venues can create. The Zoning Ordinance has not been updated for this specific issue and lacks the ability to control or monitor some of the recent issues and uses arising in Norman.

cc: Mary Rupp, Interim City Manager  
Kathryn Walker, Interim City Attorney  
Kevin Foster, Interim Police Chief