

Outdoor Live Entertainment Study Fact Sheet

Why Is This Study Needed?

This was initiated by Motion M-20-5 (authored by Councilmembers Banks and Palmer), which instructed City Planning Commission staff to undertake the study. It is necessary because the Department of Safety and Permits made a determination that, since the zoning ordinance says that doors and windows must be closed during all performances, and there are no doors and windows to close outside, businesses anywhere in the city are not allowed to have outdoor live entertainment without a special event permit (though businesses that were already hosting outdoor live entertainment are allowed to continue as long as they don't change locations or close for more than 6 months).

What Does This Study Do?

This study will undertake a holistic analysis of outdoor live entertainment regulations in the city's Zoning Ordinance, and will create recommendations that would potentially allow some new businesses to host outdoor live entertainment, clarify regulations for businesses currently hosting outdoor live entertainment, suggest ways to mitigate some issues with excess sound, and may include new ways to regulate outdoor festivals, concerts, and events.

What Is Included In This Study?

This study will examine regulations to outdoor live entertainment in other cities, including San Francisco, Seattle, Austin, and Nashville; examine which zoning districts outdoor live entertainment could/should be allowed; study if there need to be changes to fees and enforcement strategies; look at sound mitigation strategies; suggest potential distance limitations from residential areas; and clarify how existing businesses with outdoor live entertainment will be regulated moving forward. This study is focused on businesses with outdoor live entertainment, including bars, restaurants and event venues; and may also include outdoor festivals and other special events, like art markets. City owned spaces, like parks, are also a part of the study.

What Is Not Included?

This study does NOT include second lines, street performers, or other cultural activity in the public right of way; nor does it include outdoor live music held at private residences. They were not affected by the determination made by the Department of Safety and Permits and still have the same allowances and restrictions as before.

Does This Study Include COVID Restrictions?

The study was ordered before COVID was an issue, so it is not explicitly mentioned as something that needs to be considered. However, because COVID has forced an increased reliance on outdoor activities for the foreseeable future, we are strongly encouraging the City Planning Commission to take it into account when drafting their recommendations. This study DOES NOT include or affect any temporary allowances or restrictions for outdoor live entertainment that are a part of the City's reopening "Phases".

What Happens After The Study Is Completed?

Once the study is complete, the City Planning Commission Board will vote to send it to City Council, with or without modifications. The City Council can choose to act on all, part, or none of the study, but any changes to regulations will require a separate vote from the City Council before they take affect. We expect the report to be sent to the City Council in December, with a vote on any changes in early Spring 2021.

How Can I Be Involved?

The City Planning Commission is taking written comments at olestudy2020@gmail.com, and any comments submitted by October 15th will be considered for inclusion in the drafting of the study. Once the plan is submitted, there will be an opportunity to send additional comments to the City Planning Commission Board before they take a vote. There will also be opportunities to contact City Council members when they consider it in late 2020/early 2021.

MOTION

NO. M-20-5

CITY HALL: January 16, 2020

BY: COUNCILMEMBERS BANKS AND GISLESON PALMER

WHEREAS, the City of New Orleans has fostered a rich musical heritage, which brings together native New Orleanians, new residents, and visitors alike; and

WHEREAS, the Council of the City of New Orleans recently received two zoning docket items, (ZD 070/19 and ZD 080/19) that attempted to define, provide use standards for, and clarify existing ambiguities for Outdoor Live Entertainment, but were insufficient in assessing its full impacts; and in their reports, staff indicated that they are supportive of, “any future exploration of a revised policy related to outdoor live entertainment, and further study where or in what circumstances such land use would be appropriate or compatible with the surrounding context”; and

WHEREAS, the Department of Safety and Permits has interpreted one of the use standards for Live Entertainment – Secondary Use (outlined in **Article 20, Section 20.3.JJ.5** of the CZO), which articulates a closed windows and doors requirement, as prohibiting any permanent form of live entertainment outdoors, only allowing for the issuance of permits for temporary outdoor live entertainment, with limitations; and

WHEREAS, this Council desires to have the City Planning Commission (CPC) more comprehensively, utilizing the City’s existing definitions and use standards, determine if amendments to existing laws are warranted or necessary, and if existing regulations should be modified to clarify and reduce any unintended secondary effects of outdoor live entertainment relative to the cultural and residential fabric of the City; **NOW THEREFORE**

BE IT MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That the City Planning Commission is hereby directed to conduct a study on Outdoor Live Entertainment regulations in the Comprehensive Zoning Ordinance, and any correlating requirements in the

City Code, to determine if modifications are warranted. In the course of the study and review, the CPC should analyze similarly situated cities' regulations, including governmental structure, to guide potential amendments, including but not limited to:

- The City of San Francisco, which defines “Fixed Place Outdoor Amplified Sound Locale” in Article 15.1 of their Police Code, addresses “Compatibility and Protection for Residential Uses and Places of Entertainment,” in Chapter 116 of their Administrative Code, and grants specific permits via an Entertainment Commission; and
- The City of Seattle, which engages law enforcement officers in fostering positive relationships among all stakeholders in the cultural economy and has compiled a Night Life Establishment Handbook; and
- The City of Austin, which conducted “The Austin Music Census” in 2015, resulting in the creation of a Music Commission; and
- The City of Nashville, which has specific regulations for outdoor music events in their Downtown area; and

Upon this review of similarly situated cities and New Orleans’s existing infrastructure – including permitted venues, zoning and overlay districts, temporary permitting structures, both citywide and by neighborhood – the Council desires a study of the City’s existing codes to prepare recommendations if any amendments to these codes are needed. This includes, but is not limited to: a review of the history of uses, interpretations, and applications of regulations related to outdoor live entertainment; the addition of definitions and use standards and revisions to existing definitions; revisions to permissible and prohibited zoning categories; updates to fee structures; possible remedies to illegal uses; enforcement mechanisms; clarification on existing non-conforming uses; mitigation measures that would promote responsible uses, minimizing nuisances; fostering strong relationships among residents, city agencies, and existing and potential venues; distance limitations; addressing the vesting of land use rights; and ensuring that all regulations encourage and allow for full compliance, promoting opportunities for responsible parties who wish to engage in and benefit from the City’s cultural economy.

The purpose of this study shall be to clarify and standardize all references to Outdoor Live Entertainment, including but not limited to Outdoor Musical Accompaniment, Outdoor Amphitheater, live entertainment outdoors, and Outdoor Amusement Facility.

BE IT FURTHER MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That the City Planning Commission is hereby directed to conduct and complete the study within 270 days of the passage of this motion and conduct the public hearing within 60 days of the passage of this motion, but may request a reasonable extension of this timeline in writing to the New Orleans City Council.

BE IT FURTHER MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That in the process of conducting a public hearing and study on the regulation of Outdoor Live Entertainment in the City of New Orleans as provided herein, the City Planning Commission and staff are directed and granted the flexibility to expand the scope of this study and make any and all legal and appropriate recommendations deemed necessary in light of study, review, and public testimony resulting from this motion.

THE FOREGOING MOTION WAS READ IN FULL, THE ROLL WAS CALLED ON THE ADOPTION OF THEREOF, AND RESULTED AS FOLLOWS:

YEAS:

NAYS:

ABSENT:

AND THE MOTION WAS ADOPTED.