

***September 18, 2007 Report to the City of Austin Planning Commission  
Codes and Ordinances Committee***

**Draft Amendment - Noise Ordinance  
Entertainment (Commercial) Business to Residential Zone  
Outdoor Amplified Sound**

*Background*

The initial report from the Noise Solutions Committee (NSC) was presented to the Codes and Ordinances Committee (C&O) of the City of Austin Planning Commission at its April 17, 2007 meeting. This report summarized a variety of problem-oriented solutions endorsed by the Committee during its work from January to April, 2007. The NSC proposed to evaluate the implementation and progress of those solutions after six months starting October, 2007.

C&O requested the NSC to continue its work by:

- conducting a search of noise ordinances of other U.S. cities to compare with the Austin ordinance
- drafting an amendment to close a loophole in the Austin Noise Ordinance and proposing specific regulations for the relationship between Commercial Outdoor Amplified Music Venues and Residential Zoning.

A Work Group from the original NSC continued monthly meetings toward that purpose.

Noise Solutions Committee  
Ordinance Amendment Work Group Report

*Summary of  
Positions  
Participating Work  
Group Members*

***Teresa Ferguson – Music Commission Representative:***  
Focus on APD enforcement action plan, business education, and sound insulation. Delay making changes to the ordinance until effectiveness of stepped up enforcement is evaluated.

***Commander Michael Jung - APD Representative/Police Enforcement Consultant: and Commander Joy Mooney – APD Southwest Area Command***

Streamline and simplify the ordinance to create an enforcement-friendly version of the regulations. Combine applicable statutes from Chapters 8, 9, and 14 into one coherent Chapter.

***Scott Trainer – Citizen/Neighborhood Representative:***  
Reiterate importance of enforcement. Amend ordinance to add specific regulations for commercial entertainment to residential.

***Saundra Kirk – Planning Commission Representative***  
Amend the ordinance to better balance priorities between venues and residents. Excessive noise interferes with the comfortable enjoyment of life and property, interferes with the well-being, tranquility, and privacy of the home. Residents are not required to welcome unwanted noise in their homes. Develop noise contour zones triggered by compatibility to assist APD identification of enforcement criteria by area. Develop a review board, oversight role. Lower the decibel level.

***Rolando Fernandez – COA Staff/Interdepartmental Coordinator/Facilitator:***  
Vest new responsibilities with the Music Commission for review and oversight of venues for permitting, educating, and implementing compliance. Define decibels, point of measurement, and buffer zones.

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*Outstanding Issues* The recommended draft amendment does not have the full support of all participating members. Outstanding issues are:

- treatment of music venues in the Central Business District outside the two downtown entertainment districts, East Sixth Street and the Warehouse Districts; whether there is the need for additional special exemption zones
- the need for a streamlined, simplified version of the noise ordinance to make it more enforcement friendly
- the appropriate COA philosophical and political balance of entitlements between the venues in the Live Music Capitol of the World and residents rights to comfort and freedom from excessive noise in their own homes.

*Next Steps* The C&O Committee should discuss the merits of and make decisions about the following possible courses of action:

- Joint Meeting of the Music and Planning Commissions to attempt to reconcile a recommendation to Council.
- ceation of a City Council appointed Task Force to go forward with a public process to revise or amend the noise ordinance
- incorporate other research into the physiological and psychological impacts of noise at standard decibel levels
- various public/political solutions.

*Noise Ordinance*

Issues of concern are addressed in the current January 2003 Ord. 031023-13; Ord.031211-11. As a body of provisions, the ordinance is defined throughout three chapters of the City Code:

- Chapter 9-2. Noise and Amplified Sound
- Chapter 8-1. Parks Administration
- Chapter 14-8. Temporary Street Closure for A Street Event

*Problem-Oriented  
Projects*

The following solutions summarize the problem-oriented projects endorsed by the Noise Solutions Committee:

1. CoA/APD - "Noise Solutions Committee Action Plan." This detailed plan describes changes APD is making in their Standard Operating Procedures (SOPs) to role out officer training on the ordinance and heighten enforcement of compliance.
2. Music Commission – "Sound Plan 2007." This involves educating business owners about their responsibilities for their music contractors, and developing best practices guidelines (placement of speakers, positive ways to interact with their neighbors, etc.). MC advocates incentives for installing best developments in sound-proofing. MC will participate in fact-finding tours with PACE.
3. Fire Department – Increase collaboration with the Fire Department for crowd violations that directly contribute to noise and public nuisance problems.
4. Public Assembly Code Enforcement (PACE) – Continue links with this proactive program that coordinates the efforts of TABC, DPS, APD, AFD, and SWS Code Enforcement.
5. Watershed Protection – Issue permits which specify applicable restrictions. Revocation of permits for repeat convictions.
6. Municipal Court – Flag repeat violations and convictions. Stiffen penalties for repeat convictions.

*Problem-Oriented  
Projects*

7. **Austin Neighborhoods Council (ANC) – Encourage neighborhoods to appoint a liaison to their APD District Representative (DR) as a communication/awareness raising approach to managing noise complaints.**
8. **Refine Noise and Amplified Sound Ordinance Chapter 9-2 to include explicit provisions of noise nuisance protections between residential to outdoor venues. Although there are language restrictions pertaining to sound between residential to residential, and for permitting and restricting noise for other property (bars), there are no specific restrictions that apply to permitted uses for outdoor music venues regarding sound equipment, hours, or footage to residential. The state law default of 85decibels, now in effect, is too high for residential compatibility.**
9. **Evaluate progress and effectiveness of the enforcement actions January, 2008.**

## Noise Solutions Committee

### Comparisons of U.S. City Noise Ordinances

<b>City</b>	<b><i>Dallas</i></b>	
<b>Setback (Buffer) Entertainment Venue to Residential Zoning</b>	150 feet of residence property line, hospital, school, nursing home, surgical facility	
<b>Decibel Level per Operating Hours</b>	Day Hours: 8AM-Sunset	Night Hours: Sunset-8AM Prohibited
<b>Provisions for Amplified Sound</b>	Mechanical loudspeaker or sound amplifier	
<b>Applicable Language, Concepts, or Definitions</b>	No loud or raucous noise offensive to ordinary sensibilities which renders the enjoyment of life or property uncomfortable or interferes with the public peace and comfort.	

<b>City</b>	<b><i>Houston</i></b>	
<b>Setback (Buffer) Entertainment Venue to Residential Zoning</b>	Property line of receiving property	
<b>Decibel Level per Operating Hours</b>	Day Hours: 7AM-10PM 65 dB – residential 68 dB – non-residential	Night Hours: 10PM-7AM 58 dB - residential
<b>Provisions for Amplified Sound</b>	No sound amplification exemptions. Permit required: valid for one 14 hour period between 8AM – 10PM; not to exceed 75 dB.	
<b>Applicable Language, Concepts, or Definitions</b>		

## Noise Solutions Committee

### Comparisons of U.S. City Noise Ordinances

<b>City</b>	<b><i>San Antonio</i></b>
<b>Setback (Buffer) Entertainment Venue to Residential Zoning</b>	250 feet of property under separate ownership, including Schools and Hospitals.
<b>Decibel Level per Operating Hours</b>	Zoning Related: <ul style="list-style-type: none"> <li>• entertainment to entertainment property – 85 Db</li> <li>• entertainment to industrial property – 72 dB</li> <li>• entertainment to business property – 70 dB</li> <li>• entertainment to residential property – 63 dB</li> <li>• River Walk Area – 72 dB</li> </ul>
<b>Provisions for Amplified Sound</b>	River Walk Area night time special provisions. Unlawful to place speakers or amplified music on patios outside enclosed buildings.
<b>Applicable Language, Concepts, or Definitions</b>	<i>Noise</i> : Any loud, irritating, vexing, or disturbing sound originating from a nearby property under separate ownership which causes injury, discomfort, or distress, of a person of reasonable nervous sensibilities.

## Noise Solutions Committee

### Comparisons of U.S. City Noise Ordinances

<b>City</b>	<b><i>Boston</i></b>	
<b>Setback (Buffer) Entertainment Venue to Residential Zoning</b>	Nearest lot line or affected dwelling	
<b>Decibel Level per Operating Hours</b>	Day Hours: 7AM-11PM 70 dB	Night Hours: 11PM-7AM 50 dB
<b>Provisions for Amplified Sound</b>	Permitted	
<b>Applicable Language, Concepts, or Definitions</b>	Prohibited noise resulting from playing of any band or orchestra, or from use of any device to amplify the noise	

<b>City</b>	<b><i>Boulder</i></b>	
<b>Setback (Buffer) Entertainment Venue to Residential Zoning</b>	No electronically amplified sound may be audible 100 feet beyond the property line, measured inside property line of receiving property	
<b>Decibel Level per Operating Hours</b>	Day Hours: 7AM-11PM Residential – 55 dBA	Night Hours: 11PM-7AM 50 dBA
<b>Provisions for Amplified Sound</b>		
<b>Applicable Language, Concepts, or Definitions</b>		

<b>City</b>	<b><i>Denver</i></b>	
<b>Setback (Buffer) Entertainment Venue to Residential Zoning</b>	Property line – that real or imaginary line and its vertical extension that separates real property owned or controlled by any person from contiguous real property owned or controlled by another person	
<b>Decibel Level per Operating Hours</b>	Day Hours: 7AM-10PM 55 dB	Night Hours: 10PM-7AM 50 dB
<b>Provisions for Amplified Sound</b>		
<b>Applicable Language, Concepts, or Definitions</b>	<i>Noise</i> shall mean sound that is unwanted and which causes or tends to cause adverse psychological or physiological effects on human beings.	

## Noise Solutions Committee

### Comparisons of U.S. City Noise Ordinances

<b>City</b>	<b><i>Detroit</i></b>	
<b>Setback (Buffer) Entertainment Venue to Residential Zoning</b>		
<b>Decibel Level per Operating Hours</b>	Day Hours: 7AM-10PM	Night Hours: 10PM-7AM
<b>Provisions for Amplified Sound</b>	<p>Operating of maintaining of any outdoor speaker affixed to any structure or placed upon any property is prohibited if:</p> <ol style="list-style-type: none"> <li>1. In any instance the speaker is audible for a distance of more than 100 feet from the source; or</li> <li>2. the speaker is located within or less than 250 feet from an area zoned residential (excludes temporary permitted uses).</li> </ol>	
<b>Applicable Language, Concepts, or Definitions</b>		

## Noise Solutions Committee

### Comparisons of U.S. City Noise Ordinances

<b>City</b>	<b><i>Miami</i></b>	
<b>Setback (Buffer) Entertainment Venue to Residential Zoning</b>	Property line	
<b>Decibel Level per Operating Hours</b>	Day Hours: 7AM-10PM SF – 70 dBA MF – 75 dBA CS – 75 dBA	Night Hours: 10PM-7AM SF – 60 dBA MF – 65 dBA CS – 70 dBA
<b>Provisions for Amplified Sound</b>	It shall be unlawful for any person owning, occupying or having charge of any building or premises or any part thereof, in the city, at any time to cause or suffer or allow any loud, unnecessary, excessive or unusual noises in the operation of any radio, phonography or other mechanical sound-making device or instrument, or reproducing device or instrument, or in the playing of any band, orchestra, musician or group of musicians, or in the use of any device to amplify the music of any band, orchestra, musician or group of musicians, where noise or music is plainly audible at a distance of 100 feet from the building, structure, vehicle or premises in which or from which it is produces. (The fact of plain audibility is prima facie evidence of violation.)	
<b>Applicable Language, Concepts, or Definitions</b>		

## Noise Solutions Committee

### Comparisons of U.S. City Noise Ordinances

<b>City</b>	<b><i>Minneapolis</i></b>	
<b>Setback (Buffer) Entertainment Venue to Residential Zoning</b>		
<b>Decibel Level per Operating Hours</b>	Day Hours	Night Hours
<b>Provisions for Amplified Sound</b>		
<b>Applicable Language, Concepts, or Definitions</b>	<p>Chapter 389. 10 Findings</p> <ul style="list-style-type: none"> <li>• Excessive noise degrades the environment of the City and the City has a substantial and, in some cases, compelling interest in controlling such noise.</li> <li>• Excessive noise degrades the environment to a degree that:             <ol style="list-style-type: none"> <li>1. is harmful to the health, welfare and safety of its inhabitants</li> <li>2. interferes with the comfortable enjoyment of life and property</li> <li>3. interferes with the well being, tranquility, and privacy of the home</li> </ol> </li> <li>• Individuals are not required to welcome unwanted noise into their own homes and there simply is no right to force unwanted noise into the home of an unwilling listener and there is a compelling interest in prohibiting such noise on a content neutral basis.</li> </ul>	

## Noise Solutions Committee

### Comparisons of U.S. City Noise Ordinances

<b>City</b>	<b><i>New York</i></b>
<b>Setback (Buffer) Entertainment Venue to Residential Zoning</b>	Inside any residential unit
<b>Decibel Level per Operating Hours</b>	45 dBA
<b>Provisions for Amplified Sound</b>	
<b>Applicable Language, Concepts, or Definitions</b>	Commercial music – No person shall make, cause, or permit any music originating from or in connection with operation of any commercial establishment or enterprise when level of sound is measured in excess of 45 dBA.

## Noise Solutions Committee

### Comparisons of U.S. City Noise Ordinances

<b>City</b>	<b>Portland</b>	
<b>Setback (Buffer) Entertainment Venue to Residential Zoning</b>	Property Line Applicable Commercial to Residential	
<b>Decibel Level per Operating Hours</b>	Day Hours: 7AM-10PM 60 dBA	Night Hours: 10PM-7AM 55dBA
<b>Provisions for Amplified Sound</b>	<ul style="list-style-type: none"> <li>• Permitted based on "Good Neighbor Agreement" negotiated in public process with notification to residences within 1,000 feet of venue, between Venue and public with City Staff input.</li> <li>• No significant adverse impacts on liveability of nearby residential zoned lands caused by noise, lights, odors, litter, or late night operations.</li> <li>•</li> </ul>	
<b>Applicable Language, Concepts, or Definitions</b>	<ul style="list-style-type: none"> <li>• Noise Review Board</li> <li>• Good Neighbor Agreement</li> <li>• Non-conforming use</li> <li>• Noise contours by area</li> <li>• Noise insulation required in all new structures to achieve an average interior level of 45 dBA; also in improvements at 75% assessed property value</li> <li>• High noise impact events may receive temporary permit, however, no cause of permitted sound may intrude into other property.</li> <li>• <i>Ambient noise</i>: All encompassing noise associated with a given environment composite of sounds from many sources, near and far.</li> <li>• <i>Intrusive Noise</i>: Plainly audible (sound) unambiguously communicated to the listener.</li> </ul>	

## Noise Solutions Committee

### Comparisons of U.S. City Noise Ordinances

<b>City</b>	<b>Sacramento</b>	
<b>Setback (Buffer) Entertainment Venue to Residential Zoning</b>	Residential property line	
<b>Decibel Level per Operating Hours</b>	Day Hours: 7AM-10PM 55 dBA	Night Hours: 10PM-7AM 50 dBA
<b>Provisions for Amplified Sound</b>	<p>It is unlawful for any person to conduct, or permit to be conducted on its property, any outdoor recreational activity, including, but not limited to, athletic events, sporting events, entertainment events and concerts at which amplified noise, amplified music, or amplified sound exceed the follow levels is created:</p> <ul style="list-style-type: none"> <li>• Sept. – Oct. &gt;96 dBA 150 feet from source</li> <li>• Nov. – Aug. &gt;98 dBA 150 feet from source</li> </ul> <p>Commencing not earlier than nine a.m. and shall be terminated no later than ten p.m. Sunday through Thursday. Friday, Saturday, and the Day before specified holidays, the amplified sound associated with outdoor activities shall commence not earlier than nine a.m. and shall be terminated no later than eleven p.m.</p> <p>Deviation from the sound limits, time limits, and place of sound measurement requirements require Planning Commission approval on the grounds that due to the nature or design of the operator's facility or its location, it is capable of handling a higher sound level or amplified sound ending at a later time without substantially increasing the likelihood that violations of any other standards set forth will occur.</p>	
<b>Applicable Language, Concepts, or Definitions</b>		