



City of Austin

2012 OUTDOOR MUSIC VENUE SOUND IMPACT PLAN

VENUE NAME: Cheer Up Charlies

ADDRESS: 1104 E. 6th St.

CONTACT

NAME: Tamara Hoover

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VENUE DETAILS

DISTRICT (Warehouse, Sixth Street, Outside): Outside

RESTAURANT GENERAL (with 51% food sales, yes/no): No

SIZE (square feet): Listed as 400

CAPACITY (inside/outside): Listed as 49/299

GENERAL DESCRIPTION OF SURROUNDING AREA

Venue is located in TOD zoning among other small retail businesses, restaurants and food trailers. The terrain is fairly flat and typical of urban landscape, with buildings streets and hard reflective surfaces. There is a residential neighborhood with SF-3 zoning on the north side of E. 7th St. The Any Baby Can building acts as a buffer to the neighborhood located north of the venue.

IMPACT ON RESIDENTIAL PROPERTIES / ADDITIONAL RESTRICTIONS

This application is for a renewal OMV permit. Based on previous neighborhood sound complaints and at the Music Office request, the venue constructed a soundproofed band shell to contain the sound levels in 2011. The band shell was constructed at considerable expense to the venue and has proven very effective at preventing sound from impacting nearby residents. The amplified sound is oriented south and is baffled to the north by the band shell. Our office monitored venue sound levels during a recent musical performance (8-11-12) and feel that the venue no longer creates a substantial sound impact to their neighbors. Based on recent changes to the sound ordinance under 9-2-14 (C), all sound permits with sound equipment located within 600' of residential use and zoning are restricted to cut off times of 8:00 pm Sunday-Thursday, and 10:00 pm Friday and Saturday. Code allows our office discretion to extend these cut off times when certain considerations are met. In consideration of extending cut off times, the Music Office relies on agreements being made between the venue and their neighbors.

The Sound Ordinance states in 9-2-14 (C) : The accountable official may issue a permit for use of sound equipment, as authorized by this chapter, for property that is:

(1) beyond 100 feet but within 600 feet of property that is zoned and used as residential, between:

- (a) 10:00 a.m. and 8:00 p.m. on Sunday through Thursday;
- (b) 10:00 a.m. and 10:00 p.m. on Friday or Saturday; or
- (c) 10:00 a.m. and 10:00 p.m. on Sunday through Thursday and 10:00 a.m. and 12:00

midnight on Friday or Saturday based on the following factors:

- (i) agreements with owners and tenants of nearby property;
- (ii) agreements with representatives of affected neighborhood organizations;

However, after a meeting initiated by the Music Office on August 14th, 2012 between the venue owner

and neighbors, it is apparent that due to consistent violations of cut off times by the venue, nearby neighbors/interested parties are in total opposition of the OMV permit renewal/extended hours. Our office is recommending the OMV permit renewal with the understanding that as many as one violation of this sound impact plan will result in revocation of the OMV sound permit. City code states: § 9-2-65
REVOCATION OF LIVE MUSIC PERMIT.

(A) The accountable official may revoke a permit issued under Article 2, Division 3 (Outdoor Music Permits) of this chapter if:

(1) the permit was issued in error; or

(2) the permit holder has not complied with the requirements of this chapter, including conditions imposed on a permit for an outdoor music venue under Section 9-2-39 (Outdoor Music Venue Permit) or a multi-day special event permit under Section 9-2-38 (Multi-Day Special Event Permit) in accordance with this section.

(B) The accountable official may revoke a permit issued under Section 9-2-38 (Multi-Day Special Event Permit) if two or more conditions of the temporary event impact plan have been violated and the applicant or operator has failed to correct the violations after 24-hour notice.

(C) The accountable official may revoke a permit issued under Section 9-2-39 (Outdoor Music Venue Permit) in accordance with the requirements of this subsection.

(1) The accountable official shall provide the applicant written notice, and an opportunity to correct the violations, at least seven (7) days prior to revoking a permit under Subsection (A) of this section. The notice provided under this subsection must specifically describe the violation(s) at issue.

(2) The accountable official shall give notice by certified mail, return receipt requested, of a revocation by the official under this division.

(3) The appellant may appeal the accountable official's decision to the city council by giving written notice to the accountable official not later than the third working day after receiving notice of the decision. The notice of appeal must identify the decision being appealed and explain the general grounds for the appeal.

(4) The city council shall hear the appeal at the next regularly scheduled meeting following receipt of the notice of appeal. An appeal is automatically granted if the council does not hear the appeal before the 21st day following receipt of the notice of appeal unless the applicant agrees to have the hearing scheduled for a later date.

(5) A revocation order remains in effect during the pendency of an appeal under this section.

Source: Ord. 20110210-029; Ord. 20111215-055.

COMPLIANCE HISTORY

WARNINGS:

12-11-11 past cut off time

CITATIONS:

11-16-11 past cut off time

RECOMMENDATION

MUSIC OFFICE APPROVAL (yes/no): YES

APPROVED DAYS AND TIMES

SUNDAY TIME: 10:00am-8:00pm
MONDAY TIME: 10:00am-8:00pm
TUESDAY TIME: 10:00am-8:00pm
WEDNESDAY TIME: 10:00am-8:00pm
THURSDAY TIME: 10:00am-8:00pm
FRIDAY TIME: 10:00am-10:00pm
SATURDAY TIME: 10:00am-10:00pm

SUBMITTED (yes/no):

CERTIFICATE OF OCCUPANCY: No

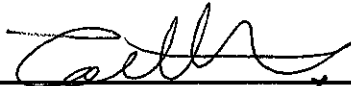
SITE PLAN/STAGE LAYOUT: No

TABC LICENSE: No

(renewal permit)

Decibel Limit: 85

Applicant Signature



Date 8-17-2012

Notary Signature



Date 8/17/12

