

Item H-4

Consider an ordinance approving an amendment to the City of Keller Code of Ordinances Chapter 10 – Miscellaneous Provisions by amending Article VIII – Noise Ordinance; providing a repealing clause; providing a maximum penalty of \$200.00; providing a severability clause; and establishing an effective date.

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Background

- A recent SUP application for Pour Shack initiated a conversation on outdoor entertainment and noise concerns in OTK.
- During development of the city noise ordinance in 2015, there was discussion about establishing a decibel limit (objective measurement), but Council wanted PD to have flexibility for enforcement.
- The resulting ordinance is subjective (“unreasonable noise,” “substantially interferes,” “ordinary sensibilities”), creating a challenge for PD to enforce the ordinance consistently.



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Current Noise Ordinance

Sec. 10-1300. - Definitions.

(e) *Commercial district*. A district as described in the City of Keller Unified Development Code for uses other than residential. Examples of this district would include, but is not limited to, O, NS, R, TC, C, IP, LI, PD, SUP, OTK, N377 and KATY ROAD.



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Current Noise Ordinance

Sec. 10-1310. - Noise nuisances.

The following acts, among others, are declared to be per se, violations of this article. The following enumerations shall not be deemed to be exclusive:

(5)*Radios, televisions, boom boxes, phonographs, stereos, musical instruments, and similar devices:* The use or operation of a radio, television, boom box, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and which unreasonably disturbs the peace, quiet, and comfort of neighbors and passersby, or is plainly audible at a distance of fifty (50) feet from any person in a commercial, industrial area, or public space. The use or operation of a radio, television, boom box, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and unreasonably disturbs the peace, quiet, and comfort of neighbors in residential areas, including multi-family or single-family dwellings.

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Background

Noise complaints/PD Comments

- Who should be issued the warning? Sound Board Tech, Band Manager, Business Manager, Property Owner, or someone else?
- Resident on Pecan (approximately 100 feet away from music venue) has actually called fewer times than resident on E. Vine St. (approx. 1,200 feet away)
- Complaints associated with Pour Shack are often actually the result of music at other area businesses



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Staff Recommendation

Sec. 10-1300. - Definitions.

(e) *Commercial district*. A district as described in the City of Keller Unified Development Code for uses **that may or may not include ~~other than~~ residential uses**. Examples of this district would include, but is not limited to, O, NS, R, TC, C, IP, LI, PD, SUP, OTK, N377 and KATY ROAD.

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Staff Recommendation

Sec. 10-1310. - Noise nuisances.

(11) *Commercial establishments adjacent to residential property districts with residential uses or adjacent to a residential use (TC, OTK, PDs, etc.):* Businesses and public spaces in a Commercial District that also includes residential uses or is adjacent to residential uses shall only be allowed to have an outdoor band, music or any type of amplified sound according to the following schedule:

Sunday: Between 10:00 a.m. to ~~11:00 p.m.~~ 10 p.m.

Monday: Between 10:00 a.m. to ~~11:00 p.m.~~ 10 p.m.

Tuesday: Between 10:00 a.m. to ~~11:00 p.m.~~ 10 p.m.

Wednesday: Between 10:00 a.m. to ~~11:00 p.m.~~ 10 p.m.

Thursday: Between 10:00 a.m. to ~~2:00 a.m.~~ 10 p.m. the following Friday morning

Friday: Between 10:00 a.m. to ~~2:00 a.m.~~ 12:00 a.m. the following Saturday morning

Saturday: Between 10:00 a.m. to ~~2:00 a.m.~~ 12:00 a.m. the following Sunday morning

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Special Event Permit

Sec. 10-1330. - Affirmative defenses.

(7) A public performance, gathering, or parade for which a permit has been obtained from the City of Keller, so long as the event is within the requirements of the permit



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Public Input:

Amendments to the Code of Ordinances do not require a Public Hearing. The public had an opportunity to speak on this agenda item during “Persons to Be Heard.”

Staff reached out to all restaurants/bars in the Old Town Keller zoning district that are known to host live music. As of today, one owner has expressed opposition.

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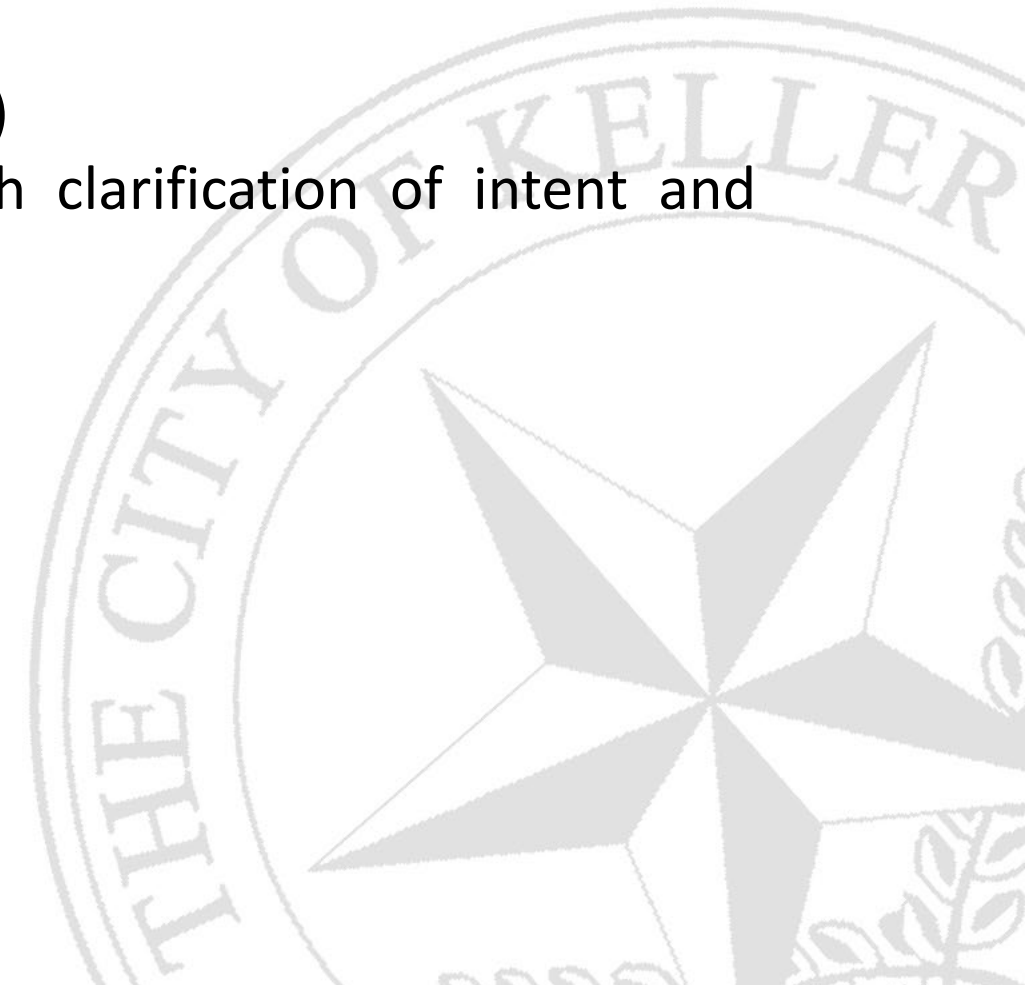
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City Council Options:

- Approve as submitted
- Approve with modified or additional condition(s)
- Table the agenda item to a specific date with clarification of intent and purpose
- Deny





Questions?

Julie Smith

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