

2009-05-21-0428

AN ORDINANCE

AMENDING CHAPTER 35, UNIFIED DEVELOPMENT CODE OF THE CITY CODE OF SAN ANTONIO, TEXAS BY ADOPTING REGULATIONS AND DEFINITIONS RELATED TO LIVE ENTERTAINMENT AS REQUESTED BY COUNCIL MEMBER CIBRIAN, DISTRICT 8.

* * *

WHEREAS, Council Member Cibrian, District 8 submitted a Council Consideration Request to adopt regulations and definitions for live entertainment; and

WHEREAS, a public hearing was held regarding this amendment at which time parties in interest and citizens were given an opportunity to be heard; and

WHEREAS, the Zoning Commission and the Planning Commission has recommended denial of adopting regulations and definitions for live entertainment; and

WHEREAS, City Council now desires to amend the Unified Development Code to adopt regulations and definitions for live entertainment; **NOW THEREFORE**;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. Chapter 35 of the City Code of San Antonio, Texas is hereby amended by adding language that is underlined (added) and deleting the language that is stricken (~~deleted~~) to the existing text as set forth in this Ordinance.

SECTION 2. Chapter 35 of the City Code of San Antonio, Texas is hereby amended as follows:

Chapter 35, Article III, Table 311-2 Non-Residential Use Matrix, is amended as follows:

35-311 Use Regulations

TABLE 311-2 NON-RESIDENTIAL USE MATRIX													
	PERMITTED USE	O-1 & O-1.5	O-2	NC	C-1	C-2	C-3	D	L	M	I-2	ERZD	(LBCS Function)
		Alcohol	Alcohol – Bar And/Or Tavern <u>without Cover Charge 3 or more days per week</u>			S	S	S	P	P	P		
Alcohol	Alcohol – Bar and/or Tavern <u>with Cover Charge 3 or more days per week</u>						S	P				P	
Alcohol	Alcohol – Nightclub <u>without Cover Charge 3 or more days per week</u>						P	P	P				

SECTION 4. Should any Article, Section, Part, Paragraph, Sentence, Phrase, Clause, or Word of this ordinance, for any reason be held illegal, inoperative, or invalid, or if any exception to or limitation upon any general provision herein contained be held to be unconstitutional or invalid or ineffective, the remainder shall, nevertheless, stand effective and valid as if it had been enacted and ordained without the portion held to be unconstitutional or invalid or ineffective.

SECTION 5. The City Clerk is directed to publish notice of these amendments to Chapter 35, Unified Development Code of the City Code of the City of San Antonio, Texas. Publication shall be in an official newspaper of general circulation in accordance with Section 17 of the City Charter.

SECTION 6. The publishers of the City Code of San Antonio, Texas are authorized to amend said Code to reflect the changes adopted herein and to correct typographical errors and to index, format and number paragraphs to conform to the existing code.

SECTION 7. This ordinance shall become effective the 31st day of May, 2009.

PASSED AND APPROVED this the 21st day of May, 2009.



M A Y O R

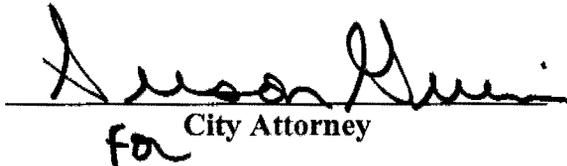
PHIL HARDBERGER

ATTEST:



City Clerk

APPROVED AS TO FORM:



for City Attorney

Agenda Item:	31						
Date:	05/21/2009						
Time:	06:37:57 PM						
Vote Type:	Motion to Approve						
Description:	An Ordinance amending Chapter 35, Unified Development Code of the City Code of San Antonio, Texas by adopting regulations and definitions related to live entertainment, as requested by Councilmember Cibrian, District 8. [T.C. Broadnax, Assistant City Manager; Roderick Sanchez, Director, Planning And Development Services]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Phil Hardberger	Mayor	x					
Mary Alice P. Cisneros	District 1		x				x
Sheila D. McNeil	District 2		x				
Jennifer V. Ramos	District 3	x					
Philip A. Cortez	District 4		x				
Lourdes Galvan	District 5		x				
Delicia Herrera	District 6		x				
Justin Rodriguez	District 7		x				
Diane G. Cibrian	District 8		x			x	
Louis E. Rowe	District 9		x				
John G. Clamp	District 10		x				

TABLE 311-2 NON-RESIDENTIAL USE MATRIX													
	PERMITTED USE	O-1 & O-1.5	O-2	NC	C-1	C-2	C-3	D	L	I-1	I-2	ERZD	(LBCS Function)
Alcohol	Alcohol – Nightclub with Cover Charge 3 or more days per week						S	P					
Amusement	Live Entertainment without Cover Charge 3 or more days per week (not including Food Service Establishments)						S	P				P	
Amusement	Live Entertainment with Cover Charge 3 or more days per week (not including Food Service Establishments)						S	P				P	
Service	Food Service Establishment without Cover Charge 3 or more days per week – Restaurant, Cafeteria, Delicatessen, Ice Cream Parlor, Buffet, Bar-B-Que (With or Without Ancillary Catering Services)(with or without accessory live entertainment)		P	P	P	P	P	P	P	P		P	
Service	Food Service Establishment with Cover Charge 3 or more days per week (with or without accessory live entertainment)						S	P				P	

Chapter 35, Appendix A., Definitions and Rules of Interpretation, is amended as follows:

APPENDIX A: DEFINITIONS AND RULES OF INTERPRETATION
Sec. 35-A101. Generally.

Bar. See "Tavern".

Cover Charge. A fee levied by a food service establishment, nightclub or tavern in addition to the charge for food and/or drink.

Live Entertainment. A use which includes any or all of the following activities, either principal or accessory: performance by musicians, dancers, stand-up comedians or other performance artists; karaoke; live bands or musical acts; or the amplification of recorded music/entertainment by live disk jockeys.

Nightclub. A tavern with more than two thousand (2,000) square feet of building area excluding kitchen, restrooms and storage areas. A nightclub use may include, in addition to the provision of alcohol, a dance hall, a dance floor, food services, live bands, disk jockey and/or live entertainment as an accessory use.

Tavern. Any use in which seventy-five (75) percent or more of its gross revenue is derived from the on-premises sale and consumption of alcoholic beverages. A tavern use may include, in addition to the provision of alcohol, a dance floor, food services, live bands, disk jockey and/or live entertainment as an accessory use.

SECTION 3. All other provisions of Chapter 35 of the City Code of San Antonio, Texas shall remain in full force and effect unless expressly amended by this ordinance.

AFFIDAVIT OF PUBLICATION

Before me, the undersigned authority, on this day personally appeared Helen I. Lutz, who being by me duly sworn, deposes and says that she is the Publisher of *The Hart Beat*; that said newspaper is generally circulated in San Antonio, Bexar County, Texas; that the attached notice was published in said newspaper on the following date(s):

June 1, 2009

Subscribed and sworn to before me this 1st day of June, 2009, to certify which witness my hand and seal of office.



Helen I. Lutz, Publisher

PUBLIC NOTICE

AN ORDINANCE
2009-05-21-0428

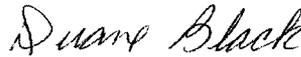
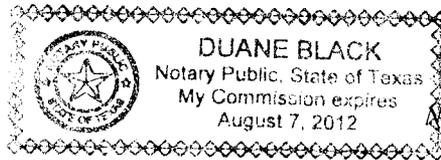
AMENDING CHAPTER 35, UNIFIED DEVELOPMENT CODE OF THE CITY CODE OF SAN ANTONIO, TEXAS BY ADOPTING REGULATIONS AND DEFINITIONS RELATED TO LIVE ENTERTAINMENT AS REQUESTED BY COUNCIL MEMBER CIBRIAN, DISTRICT 8.

PASSED AND APPROVED this 21st day of May, 2009.

**/S/ PHIL HARDBERGER
MAYOR**

**ATTEST: LETICIA VACEK
CITY CLERK**

6/1



Notary Public in and for the State of Texas

Duane Black

Name of Notary

My commission expires August 7, 2012



UDC Amendment Live Entertainment

AGENDA ITEM # 31
May 21, 2009

1

BACKGROUND

- CCR – Councilwoman Diane Cibrian, District 8
- Concern over intensity of impact live entertainment uses can have on nearby properties

2

PROPOSED CHANGES

- Define "live entertainment" and cover charge
- Create new use matrix entries for live entertainment with and without cover charges 3 or more days per week; require an S in C-3 Zoning
- Create new use matrix entries for bars, nightclubs and restaurants with cover charges 3 or more days per week; require an S in C-3 Zoning
- No locational restrictions for bars, nightclubs and restaurants without the 3-day a week cover charge
- Restaurants with accessory live entertainment would not be required to have an S in C-3 Zoning, unless charging a cover charge 3 or more days per week

3

EFFECT

- Legally existing uses would be grandfathered
- A rezoning request with a site plan would be required for new live entertainment establishments
- The rezoning case would afford citizens a greater opportunity to participate via the public hearing process, and would allow City Council to place conditions on a proposed use, or deny the request

4

COORDINATION

- City Attorney's Office
- San Antonio Restaurant Association
- Individual business proprietors
- Commission/Committee review:
 - Zoning Commission – March 17, 2009: recommended denial
 - Briefings to:
 - CSMA Board – March 24, 2009
 - Planning Commission – April 8, 2009
- Infrastructure and Growth Committee – May 20, 2009: final review

5

RECOMMENDATION

STAFF RECOMMENDS APPROVAL

6