WILDWOOD®

January 17, 2017

The Honorable City Council
The City of Wildwood, Missouri
16860 Main Street
Wildwood, Missouri 63040

Council Members:

The Planning and Zoning Commission has completed its review of the posted request regarding proposed consideration of existing and/or new regulations for entertainment venues, where the activity is broadcasting sound or noise outdoors and prepared the following recommendation regarding it for City Council's consideration. This recommendation was completed in accordance with the requirements of Chapter 89 of Missouri Revised Statutes and those regulations of the City relating to public notice, publications, and amendments to the City's codes (Chapter 415.560 of the City of Wildwood Zoning Ordinance). This recommendation and associated action are as follows:

Petition:	**P.Z. 12-16**
Petitioner:	**City of Wildwood Planning and Zoning Commission, c/o Department of Planning, 16860 Main Street, Wildwood, Missouri 63040**
Request:	A request to amend Chapter 415 of the City of Wildwood's Code of Ordinances by either the addition of proposed requirements to Section 415.380 Miscellaneous Regulations or the inclusion of a new Section 415.600 Live Performance and Outdoor Entertainment Regulations, which would establish parameters to ensure consistency in the allowance of live performances and outdoor entertainment, as well as other sound that is projected outdoors through speakers, public address systems, and other such amplification equipment.
Zoning District (s):	All "C" Commercial Districts
Public Hearing Date:	November 7, 2016
Date and Action on Information Report:	December 19, 2016 – Recommend no change to or addition of regulations per this request by a vote of 8 to 0 (Voting Aye – Archeski, Gragnani, Bartoni, Beattie, Kohn, Manton, Bowlin, and Bopp)
Date and Action on Letter of Recommendation:	January 17, 2017 - TBD
Report:	Attachment A

Background Information: Attachment B
Wards: All

Copies of the City of Wildwood's Master Plan, Charter, and Zoning Ordinance are all on file with the City Clerk's Office.

Respectfully submitted,
CITY OF WILDWOOD PLANNING AND ZONING COMMISSION

R. Jon Bopp, Chair

ATTEST:

Joe Vujnich, Director
Department of Planning

cc: The Honorable James R. Bowlin, Mayor
Ryan S. Thomas, P.E., City Administrator
John A. Young, City Attorney
Kathy Arnett, Assistant Director of Planning and Parks
Travis Newberry, Planner

ATTACHMENT A - REPORT

Background >>> Over the course of the last several years, the Big Chief Roadhouse has had to have a review of its use of its patio area for outdoor live performances of music due to concerns about loud noise upon the property's surrounding neighbors. This review also includes considerations relating to the established hours and days of operation for the music, along with a yearly meeting where surrounding property owners and the Police Department are notified and allowed to comment. Therefore, each year, the owner of this restaurant has been subject to a decision that would allow live music performances to continue on the patio of the business or not.

During the 2016 review of this outdoor music allowance, the owner of the restaurant questioned the singular nature of her process and why she was the only business of this type to be held to an annual review. The Planning and Zoning Commission appreciated the question and held a discussion on this business and others in Town Center that offer live music in an outdoor venue and decided it would be appropriate to undertake a review of this popular activity that restaurants like to offer as a means to bring, and keep, individuals at their facility longer, while having a more enjoyable time. This decision to review this matter also included a request from the Planning and Zoning Commission members that a survey of all businesses that currently, or might at some time, offer outdoor performances be undertaken and ask about their relative opinions on future regulations, as well as other considerations relating to this topic.

The survey was prepared and provided to a total of twenty (20) businesses that were determined to be already providing outdoor performances of live music or could possibly benefit from the allowances for outdoor live performances of music and other entertainment. The Commission would note that nine (9) businesses responded to the survey and those returns are attached to this report for the City Council's review. This return rate on this survey is very good, and needed, given the small sampling size. Generally, the results indicate the following characteristics:

1. Not all restaurants offer live music performances, but some appear to broadcast music through speakers to a dining area or areas.
2. Most respondents noted a limited outdoor season, generally from April to October.
3. Most respondents that do offer live music performances in an outdoor venue limit the times to no later than 11:00 p.m. to be respectful of surrounding areas.
4. Some of the respondents only have live performances of outdoor music on special occasions.
5. Almost all of the respondents noted, in some form, a desire to respect the neighborhoods around them in terms of noise levels.

Along with this information, the City Attorney provided a set of draft regulations that were developed by his firm for another community relative to outdoor performances, which includes venues that provide live music.

At the public hearing on this request, the Department identified several key points regarding current allowances and the zoning ordinances that address them on a site-by-site basis at this time. These points were as follows:

1. Any regulations that might be adopted in this regard would primarily apply within the City's Town Center Area, where almost all of Wildwood's commercial zoning district designations exist.
2. Any regulations that might be adopted would have to be crafted to address restrictions that may exist in some of the current site-specific ordinances approved under the regulations of the C-8 Planned Commercial District, M-3 Planned Industrial District, and Planned Residential Development Overlay Districts (PRD) that might otherwise prohibit such. Otherwise, each of the site-specific ordinances would have to be amended to comply with these possible new underlying regulations for outdoor performances.
3. Any regulations that might be adopted could also extend to other outdoor venues that generate noise besides live performances, such as broadcasting music through speakers.
4. Any regulations that might be adopted must encourage consistency in how all of these venues are treated in terms of hours and days of operation, locational aspects, acceptable noise levels, and other characteristics, so as they can operate effectively, but not cause potential issues for surrounding areas, particularly if residential in nature.

Current Request >>>

The specific request presented to the Planning and Zoning Commission at its public hearing on this matter was as follows:

P.Z. 12-16 City of Wildwood Planning and Zoning Commission, c/o Department of Planning, 16860 Main Street, Wildwood, Missouri 63040 - A request to amend Chapter 415 of the City of Wildwood's Code of Ordinances by either the addition of proposed requirements to Section 415.380 Miscellaneous Regulations or the inclusion of a new Section 415.600 Live Performance and Outdoor Entertainment Regulations, which would establish parameters to ensure consistency in the allowance of live performances and outdoor entertainment, as well as other sound that is projected outdoors through speakers, public address systems, and other such amplification equipment. **(Wards – All)**

The Planning and Zoning Commission sought this requested review on how outdoor music and entertainment venues are regulated in the City, after an owner of such raised questions in the past about day and time requirements on performances, and asked that a single standard be considered in this regard. Given no universal approach to these activities existed in the City's Zoning Ordinance and, therefore, is currently dependent on peace disturbance laws and references in site-specific ordinances for commercial sites, this review was intended to determine if a single set of regulations would provide clarity to owners of facilities wanting to provide this type of entertainment, while making enforcement expectations and actions more easily determined in the future.

For the purposes of pertinent background regarding this current request, the reason there appears to be an inequity in this area of regulation is a function of the zoning district designations' approval date. If approved by St. Louis County prior to the incorporation of Wildwood, restrictions in terms of where allowable and permitted activities may exist, typically inside the building or buildings, were set. Conversely, if the ordinance that governs the development was approved by the City, and in Town Center, allowances for outdoor activities were programmed into it or not prohibited. This distinction leads to certain locations having different terms of use. However, none of the ordinances, whether St. Louis County or the City of Wildwood, precludes live performances or music inside the associated buildings.

Analysis >>> Necessary to the Commission's consideration of this request is the definition of its respective components. In this instance, the primary component to be analyzed is the necessity of the change for this purpose. Along with this component, the Commission would note that, for it to support new legislation in this regard, a definable community benefit must exist. Each of these components must be favorable, before the Commission can consider a recommendation, which supports this request.

(1.) The Necessity of the Change - The Commission would note the necessity of this proposed change is premised on a perceived inequity in how outdoor performances of live music are addressed by the City. This inequity, as explained in this report, is more a function of timing associated with the rezoning of the property, not a deliberate decision on the part of Wildwood. The inequity in regards

to outdoor performances and other activities of a similar nature is not intended to cause issues for businesses wanting to offer this type of amenity or necessity, but rather to recognize the primacy and benefit of setting specific operating parameters and other protections within the site-specific ordinance established for that singular development, which then allows for the character of the area and other proximity considerations relating to potential noise issues to be taken into greater account, than necessarily might in the application of an overall universal approach.

This approach has been applied due to almost all of the commercial sites in the City were approved and developed under the planned commercial district ordinance regulations and crafted to address the character of the surrounding area and the potential impacts associated with any particular development. Accordingly, and in the opinion, of the Commission, this connection between the use of the property and the area around it is best addressed by the site-specific conditions of an ordinance based upon a defined plan. With the development and application of conditions via the site-specific ordinance process, the intended utilization of the property can be addressed, while protecting the area around from unwanted nuisance impacts. Accordingly, the application of requirements to address outdoor performances of live music and other broadcasts may better be accomplished on a case-by-case basis, rather than with a universal ordinance.

Additionally, a universal ordinance does exist in this regard and is enforced as peace disturbance. The determination of peace disturbance is left up to the responding officer to a complaint, but provides the greatest degree of flexibility in this regard, regardless of time of day. The context of this legislation is as follows:

Chapter 210. Offenses
Article V. Offenses Concerning Public Peace
Section 210.150. Peace Disturbance — Penalty.

A. A person commits the offense of peace disturbance if:

1. He/she unreasonably and knowingly disturbs or alarms another person or persons by:
   a. Loud noise; or
   b. Offensive language addressed in a face-to-face manner to a specific individual and uttered under circumstances which are likely to produce an immediate violent response from a reasonable recipient; or
   c. Threatening to commit a felonious act against any person under circumstances which are likely to cause a reasonable person to fear that such threat may be carried out; or
   d. Fighting; or
   e. Creating a noxious and offensive odor.

With these regulations, and the ability to address specific circumstances via the process associated with the planned districts and their resultant legislation, the Commission does not believe the introduction of a universal ordinance is needed at this time for outdoor performances or broadcasts.

In summary, relative to the necessity of new legislation for this purpose, the Commission would again identify the following items:

1. A process exists for allowing and/or controlling outdoor performances and/or broadcasts via the current zoning district designations of almost all commercial zones in Wildwood, which is the C-8 Planned Commercial District designations and associated site-specific ordinances.
2. These site-specific ordinances can be tailored, when first adopted, to address the property's conditions, while taking into account the surrounding neighborhoods and proximity issues associated with the performance or broadcast of music and other sound.
3. The site-specific ordinances can be amended as circumstances change in an area of Town Center, along with accommodating modifications for unforeseen circumstances that may develop over time.
4. The City has a peace disturbance laws in place to address Town Center and other areas of Wildwood.
5. The application of a universal ordinance could lead to enforcement considerations outside the Town Center Area, which the Commission would consider beyond the scope of this initial discussion, again being prompted by a specific situation involving one (1) location.
6. The number of businesses responding to the survey was nine (9) of the twenty (20) businesses contacted by the City, the following information can be noted: three (3) of them provide live music in outdoor settings, three (3) of them broadcast music through speakers, and three (3) of them offer no music. Therefore, the current need for a universal ordinance appears limited at this time.

Community Benefit – The Commission would note the promotion of activities for businesses to ensure their success in the City of Wildwood has high value and benefit. Nothing in the Commission's proposed recommendation on this request would preclude any business from offering this activity, even if currently prohibited by its governing ordinance, since an amendment to such can be requested. This amendment process allows all parties to participate in the discussion of a potential change and develop the best approach for the petitioner and the area in the vicinity of the site. Communication and information provided by this process, if needed, does provide the greatest benefit to all parties.

Additionally, if an existing ordinance already allows outdoor performances and broadcasts, it can be amended to address changes to the business that may occur over time or, conversely, be modified to eliminate problems impacting an area around a commercial development. This approach also ensures that a universal ordinance does not grant authorization to an activity that, in the end, creates unwanted impacts due to the inability to review it on a case-by-case basis, which could occur where residential land uses are in close proximity to a business area. Conversely, this approach will not arbitrarily set a time for an activity that is greater than necessary or too limiting for operational purposes.

Overarching this matter and its discussion is the City's knowledge of how sound is very difficult to manage and, in Wildwood, travels long distances, given its topography. With sound being such a major planning factor, and that many Wildwood residents move to this area for its rural and quiet

setting, addressing these issues on a case-by-case basis is appropriate and supported by the Commission. Given the desire of the City to promote Town Center, review of future uses and associated plans can always factor in the outdoor considerations and ensure all potential pitfalls are addressed sooner rather than later.

Conclusion and Recommendation >>> The Planning and Zoning Commission is not recommending the creation of new legislation to address outdoor performances or broadcasts at this time. At some point in the future, if zoning processes change, such a universal approach may become necessary. Accordingly, the Commission supports utilizing the tools of the Zoning Ordinance, planned districts, and existing peace disturbance laws to ensure that businesses wanting to provide outdoor entertainment and broadcasts have ample opportunity, while protecting surrounding residential areas from impacts, where applicable.

ATTACHMENT B
Background Information

WILDWOOD

CITY OF WILDWOOD
OCT 07 2016
DEPT OF PLANNING & PARKS

Outdoor Music Survey

Instructions: Please consider taking a few minutes to complete the following questions regarding this important topic. Your input on this matter is greatly appreciated. If you prefer, you may also complete this survey on the City's website at www.cityofwildwood.com/musicsurvey . Thank you.

1) Please check the boxes bellow that apply to your current practices regarding live outdoor music performances, music broadcasted outdoors through speakers, public announcement systems, etc. (Please check all that apply.)

- [x] Live outdoor music performances, acoustic
- [x] Live outdoor music performances, with amplification
- [ ] Music broadcast through speakers (i.e. outdoor seating areas, etc.)
- [ ] I don't currently provide outdoor music performances or music broadcast through speakers (See Question #2)
- [ ] Other. Please specify: _____

2) If you don't currently provide live outdoor music performances and/or music broadcast outdoors through speakers, do you plan to do so in the future?

- [ ] Yes. Please specify: _____
- [ ] No

3) If you currently provide live outdoor music performances and/or music broadcast outdoors through speakers, what months of the year do you typically provide this entertainment? (Please check all that apply.)

- [ ] January
- [ ] February
- [ ] March
- [ ] April
- [x] May
- [x] June
- [x] July
- [x] August
- [x] September
- [x] October
- [ ] November
- [ ] December

4) If you plan to provide live outdoor music performances and/or music broadcast outdoors through speakers in the future, what months of the year would you do so? (Please check all the apply.)

- [ ] January
- [ ] February
- [ ] March
- [ ] April
- [ ] May
- [ ] June
- [ ] July
- [ ] August
- [ ] September
- [ ] October
- [ ] November
- [ ] December

SEE NEXT PAGE FOR MORE QUESTIONS

5) If you currently provide live outdoor music performances and/or music broadcast outdoors through speakers, what hours of the day do you typically do so?

6-11 PM

6) If you plan to provide live outdoor music for performances and/or music broadcast outdoors through speakers in the future, what hours of the day do would you do so?

7) Please provide any comments, concerns, or questions regarding any future regulations regarding live outdoor music performances, as well as music that is broadcast outdoors through speakers, public announcement systems, etc. Your input is valued and appreciated.

The Planning and Zoning Commission and Department of Planning greatly appreciate your input on this important topic. Please return the completed survey to The City of Wildwood, 16860 Main Street, Wildwood, Missouri 63040, in the enclosed, postage paid envelope.

The City values you as a business owner and will notify you of any future meetings where this important topic is to be discussed.

Thank You

WILDWOOD®

CITY OF WILDWOOD
OCT 07 2016
TW
DEPT OF PLANNING & PARKS

Outdoor Music Survey

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- ☐ Live outdoor music performances, with amplification
- ☐ Music broadcast through speakers (i.e. outdoor seating areas, etc.)
- ☐ I don't currently provide outdoor music performances or music broadcast through speakers (See Question #2)
- ☒ Other. Please specify: OUR LIVE MUSIC SHOWS ARE INSIDE

2) If you don't currently provide live outdoor music performances and/or music broadcast outdoors through speakers, do you plan to do so in the future?

- ☐ Yes. Please specify: _____
- ☒ No – I'm afraid it would offend the neighbors

3) If you currently provide live outdoor music performances and/or music broadcast outdoors through speakers, what months of the year do you typically provide this entertainment? (Please check all that apply.)

☐ January	☐ February	☐ March
☐ April	☐ May	☐ June
☐ July	☐ August	☐ September
☐ October	☐ November	☐ December

4) If you plan to provide live outdoor music performances and/or music broadcast outdoors through speakers in the future, what months of the year would you do so? (Please check all the apply.)

☐ January	☐ February	☐ March
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SEE NEXT PAGE FOR MORE QUESTIONS →

5) If you currently provide live outdoor music performances and/or music broadcast outdoors through speakers, what hours of the day do you typically do so?

N/A

6) If you plan to provide live outdoor music for performances and/or music broadcast outdoors through speakers in the future, what hours of the day do would you do so?

N/A

7) Please provide any comments, concerns, or questions regarding any future regulations regarding live outdoor music performances, as well as music that is broadcast outdoors through speakers, public announcement systems, etc. Your input is valued and appreciated.

Occassionally we will play instruments outside; however, never amplified! Acoustic music is often amplified! I would just say we don't play any amplified music outside!

Penn Elze
Stovall's Crew

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Thank You

WILDWOOD

DEPT OF PLANNING & PARKS
OCT 11 2016
CITY OF WILDWOOD

Outdoor Music Survey

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- [ ] Other. Please specify: _____

2) If you don't currently provide live outdoor music performances and/or music broadcast outdoors through speakers, do you plan to do so in the future?

- [ ] Yes. Please specify: _____
- [ ] No

3) If you currently provide live outdoor music performances and/or music broadcast outdoors through speakers, what months of the year do you typically provide this entertainment? (Please check all that apply.)

- [ ] January
- [ ] April
- [x] July
- [x] October
- [ ] February
- [x] May
- [x] August
- [ ] November
- [ ] March
- [x] June
- [x] September
- [ ] December

4) If you plan to provide live outdoor music performances and/or music broadcast outdoors through speakers in the future, what months of the year would you do so? (Please check all the apply.)

- [ ] January
- [ ] April
- [ ] July
- [ ] October
- [ ] February
- [ ] May
- [ ] August
- [ ] November
- [ ] March
- [ ] June
- [ ] September
- [ ] December

SEE NEXT PAGE FOR MORE QUESTIONS

5) If you currently provide live outdoor music performances and/or music broadcast outdoors through speakers, what hours of the day do you typically do so?

6-11pm

6) If you plan to provide live outdoor music for performances and/or music broadcast outdoors through speakers in the future, what hours of the day do would you do so?

7) Please provide any comments, concerns, or questions regarding any future regulations regarding live outdoor music performances, as well as music that is broadcast outdoors through speakers, public announcement systems, etc. Your input is valued and appreciated.

We end music @ 11:00pm So to not interfere w/ the neighboring hotel.

Beth Williams
Table Three
314-581-2241

The Planning and Zoning Commission and Department of Planning greatly appreciate your input on this important topic. Please return the completed survey to The City of Wildwood, 16860 Main Street, Wildwood, Missouri 63040, in the enclosed, postage paid envelope.

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Thank You

WILDWOOD

Outdoor Music Survey

CITY OF WILDWOOD
OCT 14 2016
Via online form
DEPT OF PLANNING & PARKS

Instructions: Please consider taking a few minutes to complete the following questions regarding this important topic. Your input on this matter is greatly appreciated. If you prefer, you may also complete this survey on the City's website at www.cityofwildwood.com/musicsurvey . Thank you.

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- [x] Music broadcast through speakers (i.e. outdoor seating areas, etc.)
- [ ] I don't currently provide outdoor music performances or music broadcast through speakers (See Question #2)
- [ ] Other. Please specify: _____

2) If you don't currently provide live outdoor music performances and/or music broadcast outdoors through speakers, do you plan to do so in the future?

- [ ] Yes. Please specify: _____
- [ ] No

3) If you currently provide live outdoor music performances and/or music broadcast outdoors through speakers, what months of the year do you typically provide this entertainment? (Please check all that apply.)

- [x] January
- [x] February
- [x] March
- [x] April
- [x] May
- [x] June
- [x] July
- [x] August
- [x] September
- [x] October
- [x] November
- [x] December

4) If you plan to provide live outdoor music performances and/or music broadcast outdoors through speakers in the future, what months of the year would you do so? (Please check all the apply.)

- [x] January
- [x] February
- [x] March
- [x] April
- [x] May
- [x] June
- [x] July
- [x] August
- [x] September
- [x] October
- [x] November
- [x] December

SEE NEXT PAGE FOR MORE QUESTIONS

5) If you currently provide live outdoor music performances and/or music broadcast outdoors through speakers, what hours of the day do you typically do so?

9:00 a.m

2:00 a.m

6) If you plan to provide live outdoor music for performances and/or music broadcast outdoors through speakers in the future, what hours of the day do would you do so?

9:00 a.m.

2:00 a.m

7) Please provide any comments, concerns, or questions regarding any future regulations regarding live outdoor music performances, as well as music that is broadcast outdoors through speakers, public announcement systems, etc. Your input is valued and appreciated.

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Thank You

WILDWOOD

CITY OF WILDWOOD
OCT 17 2016
DEPT OF PLANNING & PARKS

Outdoor Music Survey

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1) Please check the boxes bellow that apply to your current practices regarding live outdoor music performances, music broadcasted outdoors through speakers, public announcement systems, etc. (Please check all that apply.)

- ☐ Live outdoor music performances, acoustic
- ☐ Live outdoor music performances, with amplification
- ☐ Music broadcast through speakers (i.e. outdoor seating areas, etc.)
- ☒ I don't currently provide outdoor music performances or music broadcast through speakers (See Question #2)
- ☒ Other. Please specify: Only on May 5th (Cinco de Mayo)

2) If you don't currently provide live outdoor music performances and/or music broadcast outdoors through speakers, do you plan to do so in the future?

- ☐ Yes. Please specify: _____
- ☒ No

3) If you currently provide live outdoor music performances and/or music broadcast outdoors through speakers, what months of the year do you typically provide this entertainment? (Please check all that apply.)

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★ We dont have any Comment or Concerns

The Planning and Zoning Commission and Department of Planning greatly appreciate your input on this important topic. Please return the completed survey to The City of Wildwood, 16860 Main Street, Wildwood, Missouri 63040, in the enclosed, postage paid envelope.

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Thank You

WILDWOOD

CITY OF WILDWOOD
OCT 24 2016
DEPT OF PLANNING & PARKS

Outdoor Music Survey

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- ☐ I don't currently provide outdoor music performances or music broadcast through speakers (See Question #2)
- ☐ Other. Please specify: _____

2) If you don't currently provide live outdoor music performances and/or music broadcast outdoors through speakers, do you plan to do so in the future?

- ☒ Yes. Please specify: POSSIBLY FOR OFF-SEASON EVENTS
- ☐ No

3) If you currently provide live outdoor music performances and/or music broadcast outdoors through speakers, what months of the year do you typically provide this entertainment? (Please check all that apply.)

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SEE NEXT PAGE FOR MORE QUESTIONS

5) If you currently provide live outdoor music performances and/or music broadcast outdoors through speakers, what hours of the day do you typically do so?

Week days in season (Dec./Jan./Feb./March) ~ 9am - 9:30pm
Week ends ~ 9am - 1am (close on non-holiday weekends - Sunday at 8:30pm. Holiday Weekends (close sunday at 1am) MLK day & Presidents' day

6) If you plan to provide live outdoor music for performances and/or music broadcast outdoors through speakers in the future, what hours of the day do would you do so?

Possibly similar hours as above.

7) Please provide any comments, concerns, or questions regarding any future regulations regarding live outdoor music performances, as well as music that is broadcast outdoors through speakers, public announcement systems, etc. Your input is valued and appreciated.

Eventually, Hidden Valley would like to be considered for future outside seating and dining, patio improvements. Hidden Valley is also exploring the possibilities of providing off-season community recreational activities and/or community-public event functions.

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- ☐ Live outdoor music performances, with amplification
- ☑ Music broadcast through speakers (i.e. outdoor seating areas, etc.)
- ☐ I don't currently provide outdoor music performances or music broadcast through speakers (See Question #2)
- ☐ Other. Please specify: _____

2) If you don't currently provide live outdoor music performances and/or music broadcast outdoors through speakers, do you plan to do so in the future?

- ☐ Yes. Please specify: _____
- ☐ No

3) If you currently provide live outdoor music performances and/or music broadcast outdoors through speakers, what months of the year do you typically provide this entertainment? (Please check all that apply.)

☐ January	☐ February	☐ March
☑ April	☑ May	☑ June
☑ July	☑ August	☑ September
☑ October	☐ November	☐ December

4) If you plan to provide live outdoor music performances and/or music broadcast outdoors through speakers in the future, what months of the year would you do so? (Please check all the apply.)

☐ January	☐ February	☐ March
☑ April	☑ May	☑ June
☑ July	☑ August	☑ September
☑ October	☐ November	☐ December

SEE NEXT PAGE FOR MORE QUESTIONS

5) If you currently provide live outdoor music performances and/or music broadcast outdoors through speakers, what hours of the day do you typically do so?

11:00 AM - 1:00 AM WED-SAT
11:00 AM - 12:00 AM MON-TUE
11:00 AM - 11:08 PM SUN

6) If you plan to provide live outdoor music for performances and/or music broadcast outdoors through speakers in the future, what hours of the day do would you do so?

SAME AS ABOVE

7) Please provide any comments, concerns, or questions regarding any future regulations regarding live outdoor music performances, as well as music that is broadcast outdoors through speakers, public announcement systems, etc. Your input is valued and appreciated.

The Planning and Zoning Commission and Department of Planning greatly appreciate your input on this important topic. Please return the completed survey to The City of Wildwood, 16860 Main Street, Wildwood, Missouri 63040, in the enclosed, postage paid envelope.

The City values you as a business owner and will notify you of any future meetings where this important topic is to be discussed.

Thank You

WILDWOOD

Outdoor Music Survey

CITY OF WILDWOOD
OCT 24 2016
DEPT OF PLANNING & PARKS

Instructions: Please consider taking a few minutes to complete the following questions regarding this important topic. Your input on this matter is greatly appreciated. If you prefer, you may also complete this survey on the City's website at **www.cityofwildwood.com/musicsurvey** . Please return the survey by **Friday, October 28, 2016**. Thank you.

1) Please check the boxes bellow that apply to your current practices regarding live outdoor music performances, music broadcasted outdoors through speakers, public announcement systems, etc. (Please check all that apply.)

- ☐ Live outdoor music performances, acoustic
- ☐ Live outdoor music performances, with amplification
- ☐ Music broadcast through speakers (i.e. outdoor seating areas, etc.)
- ☒ I don't currently provide outdoor music performances or music broadcast through speakers (See Question #2)
- ☐ Other. Please specify: _____

2) If you don't currently provide live outdoor music performances and/or music broadcast outdoors through speakers, do you plan to do so in the future?

- ☐ Yes. Please specify: _____
- ☒ No

3) If you currently provide live outdoor music performances and/or music broadcast outdoors through speakers, what months of the year do you typically provide this entertainment? (Please check all that apply.)

- ☐ January
- ☐ February
- ☐ March
- ☐ April
- ☐ May
- ☐ June
- ☐ July
- ☐ August
- ☐ September
- ☐ October
- ☐ November
- ☐ December

4) If you plan to provide live outdoor music performances and/or music broadcast outdoors through speakers in the future, what months of the year would you do so? (Please check all the apply.)

- ☐ January
- ☐ February
- ☐ March
- ☐ April
- ☐ May
- ☐ June
- ☐ July
- ☐ August
- ☐ September
- ☐ October
- ☐ November
- ☐ December

SEE NEXT PAGE FOR MORE QUESTIONS

5) If you currently provide live outdoor music performances and/or music broadcast outdoors through speakers, what hours of the day do you typically do so?

6) If you plan to provide live outdoor music for performances and/or music broadcast outdoors through speakers in the future, what hours of the day do would you do so?

7) Please provide any comments, concerns, or questions regarding any future regulations regarding live outdoor music performances, as well as music that is broadcast outdoors through speakers, public announcement systems, etc. Your input is valued and appreciated.

We dont mind any of our neighbors having live music!!

The Planning and Zoning Commission and Department of Planning greatly appreciate your input on this important topic. Please return the completed survey to The City of Wildwood, 16860 Main Street, Wildwood, Missouri 63040, in the enclosed, postage paid envelope.

The City values you as a business owner and will notify you of any future meetings where this important topic is to be discussed.

Thank You

WILDWOOD

CITY OF WILDWOOD
OCT 31 2016
DEPT OF PLANNING & PARKS

Outdoor Music Survey

Instructions: Please consider taking a few minutes to complete the following questions regarding this important topic. Your input on this matter is greatly appreciated. If you prefer, you may also complete this survey on the City's website at **www.cityofwildwood.com/musicsurvey** . Please return the survey by **Friday, October 28, 2016**. Thank you.

1) Please check the boxes bellow that apply to your current practices regarding live outdoor music performances, music broadcasted outdoors through speakers, public announcement systems, etc. (Please check all that apply.)

- ☐ Live outdoor music performances, acoustic
- ☐ Live outdoor music performances, with amplification
- ☒ Music broadcast through speakers (i.e. outdoor seating areas, etc.)
- ☐ I don't currently provide outdoor music performances or music broadcast through speakers (See Question #2)
- ☐ Other. Please specify: _____

2) If you don't currently provide live outdoor music performances and/or music broadcast outdoors through speakers, do you plan to do so in the future?

- ☐ Yes. Please specify: If allowed
- ☐ No

3) If you currently provide live outdoor music performances and/or music broadcast outdoors through speakers, what months of the year do you typically provide this entertainment? (Please check all that apply.)

☐ January	☐ February	☐ March
☐ April	☐ May	☐ June
☐ July	☐ August	☐ September
☐ October	☐ November	☐ December

4) If you plan to provide live outdoor music performances and/or music broadcast outdoors through speakers in the future, what months of the year would you do so? (Please check all the apply.)

☐ January	☐ February	☐ March
☒ April	☒ May	☒ June
☒ July	☒ August	☒ September
☒ October	☒ November	☐ December

There should not be a limit based on time of year.

SEE NEXT PAGE FOR MORE QUESTIONS

5) If you currently provide live outdoor music performances and/or music broadcast outdoors through speakers, what hours of the day do you typically do so?

The goal of live music is to provide option to customers during off peak times of business.

6) If you plan to provide live outdoor music for performances and/or music broadcast outdoors through speakers in the future, what hours of the day do would you do so?

Follow times already established ending @ 11pm

7) Please provide any comments, concerns, or questions regarding any future regulations regarding live outdoor music performances, as well as music that is broadcast outdoors through speakers, public announcement systems, etc. Your input is valued and appreciated.

Live music is a marketing tool for business to promote additional business during off peak times. Days and frequency should not be limited. Business owners should be able to use music when needed during different seasons throughout the year. Don't put too many restrictions as long as noise ordinance & ending time is followed. I can obtain a permit to have live music @ my house & band must end at 11pm but my business in a commercial district must end @ 9:30. Weird? Thanks! Super excited to see how the city will grow from this experience!

The Planning and Zoning Commission and Department of Planning greatly appreciate your input on this important topic. Please return the completed survey to The City of Wildwood, 16860 Main Street, Wildwood, Missouri 63040, in the enclosed, postage paid envelope.

The City values you as a business owner and will notify you of any future meetings where this important topic is to be discussed.

Thank You

CHAPTER ___: LIVE ENTERTAINMENT REGULATIONS

SECTION ___.010: DEFINITIONS

As used in this Chapter, the following terms shall have these prescribed meanings:

BUSINESS OWNER OR OPERATOR: Any person who owns or operates a commercial establishment offering live entertainment. If owned and/or operated by a partnership, each partner shall be deemed an owner and/or operator of the business. If owned and/or operated by a corporation, including a limited liability organization, each officer, director or principal stockholder shall be deemed an owner and/or operator of the business. For the purpose of this Section, a principal stockholder is a person who owns or controls twenty percent (20%) or more of the corporation or organization.

COMMERCIAL ESTABLISHMENT: Any building and the grounds used therewith or any tract of land where services are offered to the public for a consideration or things are sold or are offered for sale or orders are taken for the sale thereof to the public.

LIVE ENTERTAINMENT: Entertainment provided to an audience via amplification, excluding karaoke. Entertainment provided by televisions, juke boxes or recorded music not played on equipment operated by a disk jockey are not required to comply with the provisions of this Chapter.

LIVE ENTERTAINMENT BUSINESS LICENSE: A license issued after approval by the City Council that permits commercial establishments to offer live entertainment, including outdoor live entertainment.

LIVE ENTERTAINMENT SPECIAL EVENT PERMIT: A permit issued after approval by the City Council that permits commercial establishments to offer live entertainment, including outdoor live entertainment, at a special event, not to exceed twenty-four (24) consecutive hours.

MANAGER: Any person or persons who manage, direct, supervise or administer the affairs or conduct of a commercial establishment offering live entertainment, including assistant managers and supervisors who work with or under the direction of a manager.

OUTDOOR LIVE ENTERTAINMENT: Live entertainment which is provided in a venue which is not enclosed by a structure which has a solid roof and at least four (4) solid walls.

PRIVATE CLUB OR LODGE: A building or premises used for social, recreational, dining or philanthropic purposes the normal use of which is limited to specific members, patrons or otherwise listed and enumerated persons who organize for a common purpose to pursue common goals, interests and activities characterized by certain membership qualifications, payment of fees and dues, regular meetings and a constitution and bylaws.

PYROTECHNIC DISPLAY: The detonation, ignition or deflagration of display fireworks or flame effects to produce a visual or audible exhibition.

SPECIAL EVENT: Events such as, but not limited to, concerts, festivals, parades and athletic events.

TENT: A pavilion, canvas house, or other temporary shelter, typically without a foundation, sustained by poles, and enclosed with walls of cloth, fabric, or other pliable material and used for live entertainment.

SECTION ___.020: LICENSES AND PERMITS -- WHEN REQUIRED

A. *Live Entertainment Business License Required.* It shall be unlawful for any commercial establishment to operate or permit to be operated on any premises in the City any live entertainment unless the commercial establishment has a valid live entertainment business license or live entertainment special event permit.

B. *Exceptions.* Live entertainment sponsored and/or authorized by the City, schools, churches, not-for-profit organizations, banquet halls, private clubs and lodges (provided such banquet halls, private clubs and lodges are in existence on or before July 19, 2012) are excluded from the provisions of this Chapter. Any banquet hall, private club or lodge constructed and/or opened after July 19, 2012, in the City that proposes to offer live entertainment shall be required to comply with the provisions of this Chapter.

SECTION ___.030: SPECIFIC RESTRICTIONS AND REQUIREMENTS

A. Outdoor live entertainment shall not be permitted between the hours of 11:00 P.M. Friday and 6:00 A.M. Saturday, between the hours of 11:00 P.M. Saturday and 11:00 A.M. Sunday, and between 10:00 P.M. Sunday, Monday, Tuesday, Wednesday, and Thursday and 6:00 A.M. the following morning.

B. All other live entertainment shall not be permitted between the hours of 1:00 A.M. and 6:00 A.M. on Saturday, between the hours of 1:00 A.M. and 11:00 A.M. on Sunday, and between 12:00 A.M. and 6:00 A.M. on Monday, Tuesday, Wednesday, Thursday, and Friday.

C. *Noise.* No noise emitting from the premises at which live entertainment is offered shall be at such a level as to unreasonably disturb the peaceful enjoyment

of nearby properties. The provisions of Sections 215.100 through 215.180 of this Code shall apply to all live entertainment.

D. *Prohibited Individuals.* With the exception of employees, no person under the age of twenty-one (21) shall be allowed on the premises of any commercial establishment that serves alcoholic beverages during the time live entertainment is being offered unless accompanied by his or her parent or legal guardian.

E. *Pyrotechnic Displays Prohibited.* No pyrotechnic displays or devices of any nature shall be permitted in conjunction with any commercial establishment offering live entertainment.

F. *Disorderly Conduct.* No fighting or other disorderly conduct shall be allowed at any commercial establishment offering live entertainment. Furthermore, no loitering or gathering around any commercial establishment offering live entertainment shall be allowed once the business has closed for the night.

G. *Separation From Nearby Residential Structures.* A live entertainment business license shall only be issued if:

1. There is at least two hundred (200) feet between the closest point of the building (or unit in a multi-tenant building) for which the license is sought and the closest point of any structure designed for residential purposes; *except* that nothing contained in this subsection shall apply to any building located within the [SPECIAL MIXED USE ZONING]; or

2. An acoustical study prepared by a qualified acoustical engineer establishes to the satisfaction of the City Council that the sound level emitting from the licensed commercial establishment will not exceed the standards set forth in Title __, Article ___ of the City Code at the closest point on any adjoining lot upon which a structure designed for residential purposes is located. The acoustical study shall document all sound-dampening features incorporated in the commercial establishment to be licensed; all such dampening features shall remain incorporated in the commercial establishment so long as such commercial establishment possesses a valid live entertainment business license.

SECTION ___.040: LIVE ENTERTAINMENT BUSINESS LICENSES -- APPLICATION REQUIREMENTS AND REVIEW PROCEDURES

A. *Fee.* Each application for a live entertainment business license shall be accompanied by an application fee of two hundred fifty dollars ($250.00), no part of which shall be refundable.

B. *Required Information.* Each application for a live entertainment business license shall include the following:

1. A completed live entertainment business license application that includes the name and address of the commercial establishment; description of commercial establishment; description of type of live entertainment to be performed; name, address, date of birth, driver's license number, telephone number and previous addresses of applicant.

2. A copy of the business license, liquor license, and any other applicable permits or licenses issued to the commercial establishment proposing to offer live entertainment.

3. A scaled drawing showing the location of the commercial establishment and proximity to other commercial establishments and/or residences, the size of the commercial establishment, the location within the commercial establishment where live entertainment will be performed, and the building ingress and egress points. Only initial applications for a live entertainment business license must include a drawing, except that a new drawing is required if, upon renewal of a live entertainment business license, the physical characteristics and location of the commercial establishment is no longer accurately reflected in the drawing submitted with the initial application.

4. If any additional construction is proposed on the commercial establishment site or if a tent will be used for any proposed live entertainment, then a building permit must be obtained from the City and a copy thereof must be included with the application.

5. In evaluating the application for the live entertainment business license, the City Council may require additional information deemed necessary to properly review the application, including an acoustical study prepared by a qualified acoustical engineer that states the sound levels emitting from the commercial establishment where live entertainment will be performed at intervals as follows: fifty (50) feet from the front building line, and one hundred (100) feet from the nearest residence or commercial establishment excluding those in the same shopping center or multi-tenant building, if applicable. The acoustical study shall document all sound-dampening features incorporated into the commercial establishment seeking a live entertainment business license.

C. *Review Of The Live Entertainment Business License Application.* Each application for a live entertainment business license shall be reviewed in accordance with the following procedures:

1. The City Clerk shall review the application for the live entertainment business license to make certain all submission requirements have been met.

2. The application for a live entertainment business license shall be referred to the Chief of Police for investigation as to the character and fitness of the

proposed business owner(s), manager(s) or any person(s) listed as having an interest in the commercial establishment. Any individual identified on the application found to have been convicted of any violation of City, State or Federal Statute, or ordinance involving moral turpitude, or who has had any previous business license suspended or revoked may result in a recommendation of denial of the license request.

3. Upon the completion of his/her investigation, the Chief of Police shall make a recommendation to the City Council to approve, approve with conditions or deny the application for the live entertainment business license.

4. A majority vote by the City Council shall be required to approve, approve with conditions or deny the application for the live entertainment business license. In approving the live entertainment business license, the City Council may add reasonable conditions above and beyond the specific restrictions and requirements of this Chapter deemed necessary to protect the peace, health, safety, comfort, morals and general welfare of the City and its inhabitants.

5. Applications for a live entertainment business license that are denied by the City Council may not be resubmitted for a period of twelve (12) months from the date of said denial, except on the grounds of new evidence or proof of change of factors found to be valid by the City Clerk or Chief of Police. Any such application setting forth new evidence or proof of change of factors shall be treated as a new application, and must comply with all of the requirements set forth this Section.

SECTION ___.050: LIVE ENTERTAINMENT SPECIAL EVENT PERMITS -- APPLICATION REQUIREMENTS AND REVIEW PROCEDURES

A. *Fee.* Each application for a live entertainment special event permit shall be accompanied by an application fee of fifty dollars ($50.00), no part of which shall be refundable. Applications must be submitted at least thirty (30) days in advance of the date of the proposed special event. Each special event shall not exceed twenty-four (24) consecutive hours in duration. A maximum of three (3) live entertainment special event permits may be issued to any commercial establishment or for the same location within a one (1) year period between January first (1st) and December thirty-first (31st) of that same year.

B. *Required Information.* Each completed application for a live entertainment special event permit shall be submitted at least thirty (30) days prior to the special event for which the permit is sought, and shall include the following:

1. A completed live entertainment special event permit application that includes: the name and address of the owners of the property at which the special event is to occur; a description of the premises at which the special event is to

occur; a description of type of live entertainment to be performed; the name, address, date of birth, driver's license number, telephone number and previous addresses of the applicant.

2. A copy of the current business license, liquor license, special event liquor license, and any other applicable permits or licenses issued to the proposed commercial establishment to offer live entertainment.

3. A scaled drawing showing the location of the commercial establishment and proximity to other commercial establishments and/or residences, size of the commercial establishment, location within the commercial establishment where live entertainment will be performed, and building ingress and egress points.

4. If any additional construction is proposed on the commercial establishment site or if a tent will be used for any proposed live entertainment, then a building permit must be obtained from the City and a copy thereof must be included with the application.

C. *Review Of The Live Entertainment Special Event Permit.* Each application for a live entertainment special event permit shall be reviewed in accordance with the following procedures:

1. The City Clerk shall review the application for the live entertainment special event permit to make certain all submission requirements have been met.

2. The application for a live entertainment special event permit shall be referred to the Chief of Police for investigation as to the character and fitness of the proposed business owner(s), manager(s) or any person(s) listed as having an interest in the proposed special event. Any individual identified on the application found to have been convicted of any violation of City, State or Federal Statute, or ordinance involving moral turpitudes or who has had any previous business license suspended or revoked may result in a recommendation of denial of the permit request.

3. Upon the completion of his/her investigation, the Chief of Police shall make a recommendation to the City Council to approve, approve with conditions or deny the application for the live entertainment special event permit.

4. A majority vote by the City Council shall be required to approve, approve with conditions or deny the application for the live entertainment special event permit. In approving the live entertainment special event permit, the City Council may add reasonable conditions above and beyond the specific restrictions and requirements of this Chapter deemed necessary to protect the peace, health, safety, comfort, morals and general welfare of the City and its inhabitants.

5. Applications for a live entertainment special event permit that are denied by the City Council may not be resubmitted for a period of twelve (12) months from the date of said denial, except on the grounds of new evidence or proof of change of factors found to be valid by the City Clerk or Chief of Police. Any such application setting forth new evidence or proof of change of factors shall be treated as a new application, and must comply with all of the requirements set forth this Section.

SECTION ___.060: EXPIRATION AND VALIDITY OF LIVE ENTERTAINMENT BUSINESS LICENSE AND SPECIAL EVENT PERMIT

The live entertainment business license will be issued for a one (1) year period beginning on January first (1st) and expiring on December thirty-first (31st) of that same year. If a commercial establishment applies for a license for a portion of the year, the live entertainment business license application fee will not be prorated. The live entertainment special event permit shall only be valid for the date(s) and hours of operation for which it was granted. A live entertainment business license or live entertainment special event permit shall only be valid for the business owner or operator to whom it was originally issued. Any sale or transfer of the commercial establishment will void any live entertainment business license or live entertainment special event permit. The new owner/operator will be required to apply for a new live entertainment business license and live entertainment special event permit if they wish to provide live entertainment.

SECTION ___.070: REVOCATION OR SUSPENSION OF A LIVE ENTERTAINMENT BUSINESS LICENSE OR SPECIAL EVENT PERMIT

The City Clerk may suspend for a period of up to ninety (90) days or revoke any live entertainment license or permit upon the finding of one (1) or more of the following:

1. Intentional misstatements or misleading statements of fact in the application for the license or permit not discovered until after the issuance of the permit or license.

2. Permitting any conduct that would constitute a violation of the requirements of this Chapter and/or any additional conditions that were placed upon the issuance of the license or permit by the City Council.

3. Permitting any conduct that would constitute a violation of any State Statutes or City ordinances.

4. Permitting noise or other conditions which unreasonably disturb the repose of occupants of nearby properties or unreasonably disturb the peaceful enjoyment of nearby properties.

5. Upon conviction of any violation of any State Statute or City ordinance, the live entertainment license or permit shall be revoked or suspended by a length of time as determined by the City Clerk, but in no event less than ninety (90) days or more than one (1) year.

SECTION ___.080: APPEAL OF A REVOKED OR SUSPENDED LIVE ENTERTAINMENT LICENSE OR PERMIT

A. If any live entertainment license or permit is revoked or suspended by the City Clerk, the holder of the permit may request review by the City Council. Written notice of a request for review must be filed with the City Clerk within five (5) days of the date of notice of suspension or revocation, and must set forth all reasons known or asserted by the appellant as to wherein and why the Clerk's decision is erroneous.

B. The City Council shall conduct a hearing after first having given such licensee/permittee not less than ten (10) days' notice, in writing, of the hearing. The notice shall contain the alleged grounds for such suspension or revocation and shall command the licensee/permittee to be present at the regular meeting or special meeting of the City Council and show cause, if any, why such license should not be suspended or revoked. The licensee/permittee shall have the right to be represented by counsel at said hearing. Such hearing shall be conducted as other City Council proceedings are conducted. Upon the suspension or revocation of any license, no license fee paid shall be refunded to the licensee/permittee.

C. The decision of the City Council and the reasons thereof shall be sent by certified mail or hand delivered to the licensee or permittee.

D. Any licensee or permitee aggrieved by a decision of the City Council may seek review in the Circuit Court of St. Charles County pursuant to the provisions of Chapter 536, RSMo.