

## ORDINANCE AMENDMENT REVIEW SHEET

**Amendment:** C20-2023-026 Live Music Venue and Creative Space Bonus Phase 2

**Description:** Amendments to Title 25 of the City Code to create a new Creative District combining district with provisions for creative space and music venue preservation, modified site requirements, and density bonuses for affordable creative space.

**Background:** Initiated by City Council Resolutions [20220728-094](#) and [20220901-089](#), and reaffirmed by City Council Ordinance [No. 20230921-103](#) and Resolution [20240229-060](#).

On July 28, 2022, the City Council adopted [Resolution No. 20220728-094](#) initiating changes to establish the criteria to be a Live Music Venue to and support the creation of a live music venue bonus and incentive program for new and existing venues. On September 1, 2022, the City Council adopted [Resolution No. 20220901-089](#) initiating changes to develop and adopt clear land use definitions and to create a bonus and incentive program for broadly defined creative spaces. These Resolutions are being addressed concurrently. Revised definitions were approved on September 14, 2023, in [Ordinance 20230914-097](#). [Ordinance No. 20230921-103](#) and [Resolution 20240229-060](#) reaffirmed City Council's commitment to the creation of a density bonus and district program to support live music and creative space districts and the preservation and incentivization of affordable creative space.

### **Summary of Proposed Code Amendment:**

The proposed code amendments will create a new combining district for an affordable creative space bonus program and:

1. Is available city-wide on parcels in majority commercial districts that have been rezoned to add the new combining district designation as areas that include existing or planned clusters of creative space use structures and sites, through a process including: minimum size requirements of three (3) acres; minimum contributing creative space sites of 25 percent of total sites in district; and review from the Housing Department and Economic Development Department.
2. Defines the following land uses as Creative Space uses:
  1. Art Gallery;
  2. Art Workshop;
  3. Cocktail Lounge;
  4. Cultural Services;
  5. Performance Venue;
  6. Personal Improvement Services; and,
  7. Theater
3. Requires the following use requirements for developments in creative district combining districts:
  1. Along at least 30 percent of building frontage along the principal street, the building must be reserved for affordable creative space uses in ground-floor spaces;

2. At least 25 percent of ground floor gross leasable area in the building must be dedicated to affordable creative space; and,
3. Development must comply with protections consistent with Existing Non-Residential Space provisions of 4-18-31 for existing creative space uses in existence on the site for at least 12 months; the developer must:
  1. Redevelop the site to replace all existing creative spaces with creative spaces of comparable size;
  2. provide current creative space operators with:
    1. notice and information about the proposed development on a form approved by the director;
    2. a payment that equals the average rent payments for six months of rental payments; and
  3. grant a creative space operator the option to lease a creative space of comparable size following the completion of redevelopment.
4. Requires an affordable lease for the the creative space operator returning to a redevelopment for ten (10) years; defines affordable creative space as the lesser of 50% of average retail space rent for the City of Austin, or a fixed ratio of annual revenues considered typical of and sustainable for the type of creative space; and limits year-over-year rent escalation to 5% or less for any creative space tenant.
5. Allows a development that provides on-site affordable creative space or pays a fee in-lieu for the preservation of an existing venue in the same district to be eligible for 30 feet of additional height above the maximum height allowed by the base zoning, up to 90 feet in total height and exemptions from the following site development standards:
  1. Minimum site area requirements
  2. Maximum floor area ratio
  3. Maximum building coverage
  4. Minimum street side yard setback and interior yard setback
  5. Minimum front yard setback
6. Modifies the applicability of Article 10 Compatibility Standards and creates compatibility requirements for a participating development as follows:
  1. Exemption from Article 10 (Compatibility Standards) Subchapter C
  2. A 25 ft compatibility buffer that complies with Section 25-8-700 (*Minimum Requirements for Compatibility Buffers*)
  3. Screening for certain objects including vehicle lights, mechanical equipment, and refuse collection areas

The following amendments were requested by the Planning Commission in Recommendation No. 20240924-12:

1. Recommend that staff explore options to manage sound impact from venues on any nearby residential uses with additional appropriate requirements in the compatibility requirements section or other sections.
2. Recommend that staff gives a greater definition of where this applies in the city prior to bringing it before council.
3. The Imagine Austin Building Block C focuses on fostering Austin’s creative community and states ‘arts, culture, and creativity are highly valued in Austin’ and key to maintaining ‘Austin’s national reputation for its artistic and welcoming culture.’ As a result, ‘Austin must support and value the city’s arts and creative sectors as vital contributors to the city’s identity, economy, and quality of life.’

In addition to ‘providing affordable, accessible, and functional studio, performance, rehearsal, and office spaces for small organizations and individual artists’, the city must ‘ensure that affordable residential units and transportation options are available for artists as housing costs and land values in the urban core rise.’

As a result, the Planning Commission urges the Council to adopt formal guidelines for the Economic Development Department to work with the Housing Department, not-for-profits, and private developers when establishing Creative Districts in ‘promoting the creation of live/work spaces and creative industry hubs, districts, and clusters’ and ‘improve access to affordable living to include housing, healthcare, and effective transportation in order to develop and retain Ausitn’s creative organizations, industries, and individuals.’

**Code Amendment Text:** See attached background information.

**Staff Recommendation: Recommended**

The Economic Development Department supports adopting this density bonus combining district as important Council-recommended actions to support preservation and new development of affordable space for live music venues and creative spaces. These tools support the regulatory changes identified in City Council Resolutions [20220728-094](#) and [20220901-089](#), including development bonuses designated districts to support creative spaces, and reaffirmed in City Council [Ordinance No. 20230921-103](#) and [Resolution 20240229-060](#).

Rather than prescribe areas as creative districts directly, this unmapped district creates a tool that can be used by property owners in partnership with creative space operators, artists, and musicians, to preserve and enhance clusters of live music, art galleries and workshops, theaters, and performance spaces, with strong community oversight through the rezoning process. Proposed criteria for applying this combining district are substantial, and intended to ensure that applications of the creative district combining district will be focused on areas with significant support from creative community and neighborhood stakeholders.

Staff reviewed recommendations from the Planning Commission to address questions and clarify program elements. Upon consultation with staff in Housing and Development Services (DSD) Departments, it was determined that additional guidance in sound mitigation is not necessary for this ordinance. Instead, if a specific proposed DBCS district includes performance venues or uses with Outdoor Music Permits, it will be reviewed by staff in the Housing and Economic Development Departments, with support from the DSD Nightlife & Entertainment Services office, to ensure design compatibility with adjacent neighborhoods. DBCS districts near residential areas will be reviewed with a high level of scrutiny to prevent any deleterious effects on residents’ quality of life. Any outdoor music use is required to go through the rigorous Outdoor Music Venue Permitting process, governed by [Chapter 9-2](#) of the Code of ordinances.

The DBCS combining district can only be applied to sites with a base zoning that is a commercial or less restrictive base zoning district. It cannot be applied to sites with a base residential zoning. It also cannot be combined with other combining districts that enable mixed uses and residential development in base commercial zones, such as DB-90 or VMU.

Staff have incorporated language into the ordinance to further exclude the DBCS combining district from existing sites with a PDA combining district. Because of these restrictions, the DBCS combining district will not compete with residentially zoned sites.

Staff support Housing Department review of any proposed DBCS combining district to ensure alignment with affordable housing goals and programs. Staff do not support incorporating residential uses into the DBCS combining district. The Housing Department supports maintaining a distinction between the DBCS program and other development bonus programs already established to encourage affordable housing; this will prevent conflicts between program goals.

**Board and Commission Actions**

**March 18, 2024** – Recommended by the Arts Commission

**March 20, 2024** – Recommended unanimously by the Codes and Ordinances Joint Committee with Commissioners Greenberg and Azhar absent

**April 1, 2024** – Briefing to the Music Commission

**July 1, 2024** – Recommended by the Music Commission

**September 24, 2024** – Recommended as amended by the Planning Commission on a vote of 7-2-1 with Commissioners Maxwell and Howard absent

**Council Action**

**October 10, 2024** – to be considered by City Council

**City Staff:**

Donald Jackson, Economic Development Department, (512) 974-2214  
donalde.jackson@austintexas.gov