

Guidelines for Entertainment Commission Review of Residential and Hotel/Motel Development Proposals under Administrative Code Chapter 116

Background

Chapter 116 of the Administrative Code, "Compatibility and Protection for Residential and Hotel/Motel Uses and Places of Entertainment," was approved by Ordinance 70-15 on May 21, 2015. Chapter 116 creates a review process at the Entertainment Commission ("Commission") for proposed new residential and hotel/motel construction and conversion projects within 300 radial feet of a permitted Place of Entertainment ("POE"). As part of that process, the Commission has the discretion to determine whether a hearing is required for a particular project. Specifically, the Commission, "or its staff as delegated by the Commission," may determine that a hearing on a proposed residential or hotel/motel project is not required "if the available evidence indicates that noise from the [POE] is not likely to create a significant disturbance for residents" of the proposed project. (Admin. Code § 116.7(b).)

The Commission adopts these Guidelines to (1) delegate to Commission staff the Commission's authority to determine whether a hearing is required under Administrative Code Section 116.7(b), and (2) establish the criteria that Commission staff shall use in making such a determination.

Criteria for Staff Determination Regarding Whether to Hold a Hearing

Pursuant to Administrative Code Section 116.7(b), the Commission hereby delegates to its staff its authority to determine whether a hearing is required under that subsection. Within five (5) business days of receiving notice of the proposed project pursuant to Section 116.7(a), the Commission Director or designated staff shall review the project proposal and determine whether a Commission hearing is required based on the factors below.

A hearing on a proposed residential or hotel/motel project is not required "if the available evidence indicates that noise from the [POE] is not likely to create a significant disturbance for residents" of the proposed project. (Admin. Code § 116.7(b).) In determining whether noise from the POE is "not likely to create a significant disturbance" for residents, staff shall consider each of the following criteria:

1. **Size of POE:** Is the POE's occupancy capacity larger than 270 people?
2. **Size of residential or hotel/motel development:** Does the proposed project include seven (7) or more residential or hotel/motel units?
3. **Complaint History:** Has the Entertainment Commission, Police Department, and/or Department of Public Health received noise complaints related to the POE's operations on three (3) or more separate occasions within the last 12 months?
4. **POE Density:** Do two (2) or more POEs exist within 300 radial feet of proposed project?
5. **POE Hours of Operation:** Does the POE operate after 10:00 p.m.?

An affirmative answer to one or more of the above listed factors shall weigh in favor of holding a hearing. Similarly, the absence of one or more of the above factors shall weigh against holding a hearing.

In addition, staff may consider any exterior acoustical measurements of conditions at the project site taken by staff pursuant to Section 116.6 when determining whether a hearing is required. Further, staff

