

## **ORDINANCE NO. 20090115-055**

**AN ORDINANCE RELATING TO REGULATORY, OPERATIONAL, AND ENFORCEMENT REQUIREMENTS FOR OUTDOOR MUSIC VENUES; INITIATING REVIEW OF EXISTING CODES AND POLICIES; ADOPTING A TEMPORARY MORATORIUM ON THE ISSUANCE OR RENEWAL OF PERMITS UNDER SECTION 9-2-12 OF THE CITY CODE; AND DECLARING AN EMERGENCY.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

### **PART 1. FINDINGS.**

The City Council finds that:

1. Confusion regarding the operational requirements, permitting procedures, and enforcement mechanisms applicable to outdoor music venues has caused problems for neighborhood residents, venue operators, and city staff.
2. To address those problems, the City Council is committed to reviewing the permitting process for outdoor music venues and considering changes to the requirements related to hours of operation, noise regulations, enforcement, and public notice for area residents.
3. In order to aid in that process, this ordinance provides policy direction to the City Manager and imposes a temporary "time out" on the issuance or renewal of outdoor music permits.
4. It is the intent of City Council to bring forward a proposal to ensure compatibility between outdoor music venues and residential properties before the February 26, 2009 council meeting.
5. The provisions of this ordinance will not impede or limit the operation of the venues of the South by Southwest Music Festival which begins March 18, 2009.

### **PART 2. CITY MANAGER RECOMMENDATIONS.**

The City Manager is directed to initiate review of existing requirements applicable to outdoor music venues and to develop a recommendation regarding proposed amendments to city code and administrative policies for the February 26, 2009 council meeting. The proposed amendments must include the following items:

1. A mechanism to enforce City Code Section 25-2-808 (*Restaurants and Cocktail Lounges*).

2. Requirements for stickers or signs to be visible from the front door of all establishments for which an outdoor music venue permit is issued. The sticker or sign must clearly describe the zoning, use, hours of operation, and decibel limits applicable to the Outdoor Music Venue, as well as the permit expiration date.

### **PART 3. TEMPORARY MORATORIUM.**

A permit or permit renewal under City Code Section 9-2-12 (*Permit for an Outdoor Music Venue*) shall not be issued until February 27, 2009, unless the permit or permit renewal would expire on or before March 24, 2009, which is the last day of the South by Southwest Music Festival.

### **PART 4. NONAPPLICABILITY.**

The prohibitions established by this ordinance apply solely to the issuance of permits under City Code Section 9-2-12 (*Permit for an Outdoor Music Venue*). This ordinance does not apply to any other permits or approvals, including but not limited to development or construction permits.

### **PART 5. WAIVER.**

- (1) The City Manager may waive the temporary moratorium in Part 3 of this ordinance only upon a determination that the temporary moratorium would impose imminent and undue hardship on the applicant; and
- (2) The applicant for a waiver must prove all facts necessary to satisfy the criteria in Section (1).
- (3) An application for a waiver must be filed with the director of the Watershed Protection and Development Review Department and must include the following information:
  - (a) the name and address of the applicant;
  - (b) the address and legal description of the property;
  - (c) evidence to support the criteria in Section (1), above; and
  - (d) other information that the director may reasonably require to evaluate the waiver application.

### **PART 6. EXPIRATION.**

This ordinance expires on February 26, 2009, at 11:59 p.m.

## **PART 7. SEVERABILITY.**

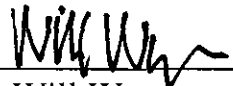
The provisions of this ordinance are severable. If a provision of this ordinance or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this ordinance.

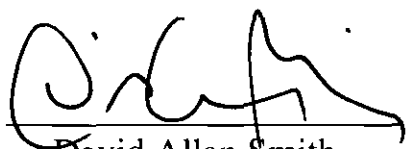
## **PART 8. EMERGENCY DECLARED; EFFECTIVE DATE.**

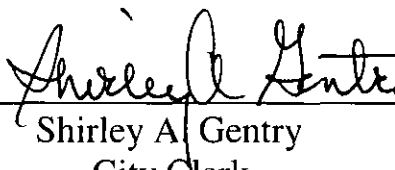
1. Based on the findings set forth in Part 1 of this ordinance, the Council finds that confusion regarding the requirements applicable to outdoor music venues negatively affects citizens of the City of Austin, as well as restaurant and club owners. The Council further finds that continued issuance of outdoor music permits and permit renewals would undermine the process initiated by this ordinance to review and consider revisions to the regulatory, operational, and enforcement requirements applicable to outdoor music permits.
2. The Council further finds that these circumstances constitute an emergency. Because of the emergency, this ordinance takes effect immediately on its passage for the immediate preservation of the public peace, health, and safety.

## **PASSED AND APPROVED**

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\_\_\_\_\_, 2009

  
Will Wynn  
Mayor

**APPROVED:**   
David Allan Smith  
City Attorney

**ATTEST:**   
Shirley A. Gentry  
City Clerk