

**ORDINANCE NO. 20090226-028**

**AN ORDINANCE RELATED TO REQUIREMENTS FOR OUTDOOR MUSIC VENUES; AMENDING CITY CODE SECTIONS 9-2-1 AND 9-2-12; ADDING A NEW CITY CODE SECTION 9-2-34; ADOPTING A TEMPORARY MORATORIUM ON THE ISSUANCE OF PERMITS FOR OUTDOOR MUSIC VENUES; 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 committed at its January 15, 2009 meeting to review the permitting process for outdoor music venues and consider changes to the requirements related to hours of operation, noise regulations, enforcement, neighborhood compatibility, and public notice for area residents.
3. By clarifying the applicable decibel limits for outdoor music venues and requiring identification signs to be posted at all outdoor music venues, the provisions of this ordinance go a long way towards addressing these issues.
4. However, it is the intent of City Council to bring forward an ordinance to address the remaining issues at or before the March 12, 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 Code Section 9-2-1 (*Definitions*) is amended to amend the definition of "outdoor music venue" to read:

(4) **OUTDOOR MUSIC VENUE** means a commercial property, including but not limited to a restaurant use permitted under Section 25-2-808 (*Restaurants and Cocktail Lounges*), where sound equipment is used to amplify sound that is not fully enclosed by permanent, solid walls and a roof.

**PART 3.** City Code Section 9-2-12 (*Permit for an Outdoor Music Venue*) is amended to read:

**§ 9-2-12 PERMIT FOR AN OUTDOOR MUSIC VENUE.**

(A) The owner or operator of an outdoor music venue must obtain a permit from the director before using sound equipment at an outdoor music venue.

(B) Except as provided in this section, [~~Subsections (C), (D), and (E)~~] a person may not use sound equipment at an outdoor music venue.

(C) A person may use sound equipment at an outdoor music venue that produces sound as measured at any point along the property line of the permitted venue not greater than 85 decibels, between 10:00 a.m. and:

- (1) 10:30 p.m. on Sunday through Wednesday;
- (2) 11:00 p.m. on Thursday; or
- (3) 12:00 midnight on Friday or Saturday.

(D) A person may use sound equipment at an outdoor music venue with an occupancy capacity of 600 or fewer people located in the Warehouse District or Sixth Street District, that produces sound as measured at any point along the property line of the permitted venue not greater than 85 decibels between 10:00 a.m. and 2:00 a.m.

(E) During the annual South-by-Southwest music event, a person may use sound equipment at a permitted outdoor music venue that produces sound as measured at any point along the property line of the permitted venue not greater than 85 decibels between 10:00 a.m. and 2:00 a.m.

(F) Use of sound equipment at an outdoor music venue associated with a restaurant use is subject to the decibel limits prescribed under Section 25-2-808 (*Restaurants and Cocktail Lounges*) and the hours of operation prescribed under Subsections (C)(1)-(3) of this section.

(G) Use of sound equipment at an outdoor music venue located in a commercial recreation zoning district is subject to the decibel limits prescribed under Section 25-2-583 (*Commercial Recreation (CR) District Regulations*) and the hours of operation prescribed under Subsections (C)(1)-(3) of this section.

**PART 4.** City Code Chapter 9-2 (*Noise and Amplified Sound*) is amended to add a new Section 9-2-34 to read:

## **§ 9-2-34 IDENTIFICATION REQUIREMENTS FOR OUTDOOR MUSIC VENUES.**

(A) The owner or operator of an outdoor music venue permitted under Section 9-2-12 (*Permit for an Outdoor Music Venue*) shall prominently display an identification sign as required by the director under Subsection (B) of this section.

(B) The director shall adopt requirements, in accordance with Chapter 1-2 (*Adoption of Rules*), governing the design, placement, and size of identification signs to be posted at all outdoor music venues. The signs shall specify the following:

- (1) the name and address of the outdoor music venue;
- (2) the name and address of the owner or operator of the outdoor music venue;
- (3) the decibel limits for operation of sound equipment at the outdoor music venue;
- (4) the hours during which sound equipment may be used at the outdoor music venue; and
- (5) the date on which the permit for the outdoor music venue expires.

## **PART 5. EXTENSION OF TEMPORARY MORATORIUM.**

1. The temporary moratorium on the issuance or renewal of permits for outdoor music venues adopted by Part 3 of Ordinance No. 20090115-055 is hereby extended until March 13, 2009. Accordingly, a permit or permit renewal under City Code Section 9-2-12 (*Permit for an Outdoor Music Venue*) shall not be issued until March 13, 2009.
2. The moratorium does not apply to new permits or permit renewals that would expire on or before March 24, 2009, which is the last day of the South by Southwest Music Festival. At the request of an applicant, the director is authorized to issue permits for outdoor music venues with an expiration on or before March 24, 2009.

## **PART 6. DECLARATION OF EMERGENCY; 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

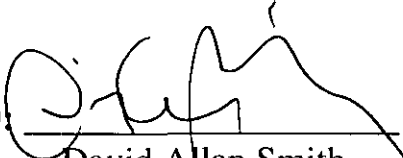
permits and permit renewals would undermine the process initiated by this ordinance to review and consider revisions to the regulatory, operational, and enforcement requirements applicable to outdoor music permits.

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.

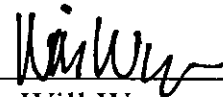
**PASSED AND APPROVED**

February 26, 2009

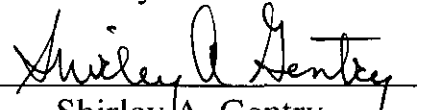
**APPROVED:**

  
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David Allan Smith  
City Attorney

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Will Wynn  
Mayor

**ATTEST:**

  
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Shirley A. Gentry  
City Clerk