

RESOLUTION NO. _____

Resolution Of The City Council Of The City Of Emeryville Granting A Waiver From The Noise Ordinance To Deacon Construction, LLC, For One Night Of Work Beginning On Thursday, December 4 2025 At 8:00 P.M. And Concluding On 8:00 A.M. On December 5, 2025 For The Replacement Of A Transformer That Requires Crane Work, A Light Tower, And A 300 kW Generator At Total Wine & More Located At 3938 Horton Street (APN: 7-617-20 AND 7-617-22)

WHEREAS, on September 19, 2025 Deacon Construction, LLC requested a Noise Waiver to facilitate the replacement of a transformer at Total Wine & More, located at 3938 Horton Street, requiring one night of work on December 4 and 5, 2025, between the hours Of 8:00 P.M. and 8:00 A.M; and

WHEREAS, a replacement of a transformer requires all electricity to the building be shut off; and

WHEREAS, a generator will run during the replacement project so that the refrigeration units in the building can continue to operate without disruption; and

WHEREAS, the replacement of a transformer requires 12 hours to complete and must take place during non-business hours because the building's heating, ventilation and air conditioning ("HVAC") units must remain off as the variation in electricity from the generator providing temporary power can damage the HVAC system; and

WHEREAS, Chapter 13 of Title 5 of the Emeryville Municipal Code limits construction noise to weekdays from 7:00 a.m. to 6:00 p.m., but allows a developer or contractor to ask the City Council for a waiver of the construction noise restrictions; and

WHEREAS, on October 21, 2025, the City Council held a duly and properly noticed public hearing to consider the application, the staff recommendation, and all public comments received; now therefore, be it

RESOLVED, that the City Council of the City of Emeryville hereby finds that the noise waiver for construction work at 3938 Horton Street is exempt from the California Environmental Quality Act (CEQA) under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment, as stated in Section 15061(b)(3) of the State CEQA Guidelines, and in this instance it can be seen with certainty that there is no possibility that the noise waiver will cause a significant effect on the environment; and be it further

RESOLVED, that the City Council of the City of Emeryville finds that the conditions set forth below provide adequate protection for nearby residents and businesses; and be it further

RESOLVED, that the City Council of the City of Emeryville hereby approves the request for a waiver of construction noise hours for night work at 3938 Horton Street with the following conditions:

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1. Work shall be allowed on December 4 and 5, 2025, as specified in the staff report, between the hours of 8:00 P.M. and 8:00 A.M. All work shall be limited to that described in the letter from Deacon Construction, LLC, dated September 19, 2025 attached hereto as Exhibit A.
2. A sign shall be posted, viewable from the public right of way adjacent to the work area, indicating the name and telephone number of a person to contact for concerns or complaints. This telephone must be answered by a live person during construction hours (not by voice mail or answering machine). This person must have the authority to stop work. The sign content and location shall be approved by the Planning Manager prior to issuance of an encroachment permit for the work specified in the applicant letter attached hereto as Exhibit A.
3. The applicant shall notify the Community Development, Police, Fire and Public Works departments with updates should there be any change in scheduling.
3. The applicant shall notify all neighbors within 300 feet of the site, and the Emeryville Police, Fire and Public Works departments, prior to commencing weekend work.
4. If residents or local businesses complain, all work on the site and in the vicinity shall cease until the issue is resolved.
5. The City Council may revoke or modify this approval if the applicant fails to comply with any of these conditions of approval, or if any complaints are received and not satisfactorily resolved.

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ADOPTED, by the City Council of the City of Emeryville at a regular meeting held Tuesday, October 21, 2025, by the following vote:

AYES: _____
NOES: _____
ABSTAIN: _____
ABSENT: _____

ATTEST:

CITY CLERK

MAYOR

APPROVED AS TO FORM:

Signed by:
Christie Crowl, Acting City Attorney
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SPECIAL COUNSEL