

ORDINANCE NO.

An Urgency Interim Ordinance Of The City Council Of The City Of Emeryville Establishing A Moratorium On The Approval Or Issuance Of An Annual Cabaret Or Dance Hall License

WHEREAS, Chapter 4 of Title 5 of the Emeryville Municipal Code, “Cabarets and Dances” (the “Cabaret Ordinance”), regulates the permitting of cabarets; and

WHEREAS, the City Council finds that the public health, safety and welfare require the establishment of regulations for the operation of ongoing cabarets and dance halls, as well as for one-time cabaret and public dancing events, as provided in Section 5-4.01 of the Cabaret Ordinance; and

WHEREAS, as expressed in Section 5-4.01 of the Cabaret Ordinance, the City Council finds it necessary to regulate:

- (a) The persons who will own and/or operate cabarets and dance halls, as well as conduct occasional cabaret or public dance events;
- (b) The location and operation of cabarets and public dances in the City, including noise, hours of operation and patron security and safety; and
- (c) The issuance of permits and licenses, including limitations on transfer and assignment, regarding cabarets and public dances, as provided in Section 5-4.01 of the Cabaret Ordinance; and

WHEREAS, as a prerequisite to issuance of a cabaret or dance hall license, the Cabaret Ordinance requires the Planning Commission to issue a conditional use permit, and in considering whether to issue a conditional use permit to an applicant, the Planning Commission must consider the zoning for the proposed cabaret or dance hall and whether the proposed cabaret or dance hall is conditionally permitted within that zone; and

WHEREAS, the Cabaret Ordinance was adopted in 1999 and has never been amended; and

WHEREAS, the City Council wishes to study amendments to the Cabaret Ordinance as well as amendments to the Planning Regulations regarding the zones where cabarets and dance halls are permitted; and

WHEREAS, Government Code Section 65858 allows the City Council to adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the City is considering or studying; and

WHEREAS, as a prerequisite for adopting or extending an interim ordinance, the Government Code requires the City Council to make findings that there is a

current and immediate threat to the public health, safety, or welfare, and that the approval of additional land use entitlements would result in that threat to public health, safety, or welfare; and

WHEREAS, the City Council is concerned that annual cabaret and dance hall licenses issued under the current Cabaret Ordinance would conflict with amendments to the Cabaret Ordinance and or Planning Regulations to be studied by the City Council; now, therefore, be it

RESOLVED, THE CITY COUNCIL OF THE CITY OF EMERYVILLE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION ONE. PURPOSE AND INTENT

The purpose and intent of this Interim Ordinance is to protect the citizens of Emeryville from a current and immediate threat to the public health, safety, and welfare arising from the issuance of annual cabaret and dance hall licenses issued under the current Cabaret Ordinance, which could conflict with amendments to the Cabaret Ordinance and or Planning Regulations to be studied by the City Council. These revisions to the Cabaret Ordinance and Planning Regulations are necessary to address the threat to the public health, safety, and welfare of the citizens of the City of Emeryville that will arise from the approval of annual licenses which may be in conflict with contemplated amendments to the permitting and zoning requirements for cabarets.

SECTION TWO. FINDINGS

1. The City Council of the City of Emeryville hereby incorporates by reference all of the Recitals set forth at the outset of this Interim Ordinance.
2. The City Council finds that it wishes to consider amendments to the Cabaret Ordinance to review appropriate requirements for issuance of a license. Furthermore the City Council wishes to consider amendments to the Planning Regulations to review zoning for cabaret and dance hall licenses.
3. The City Council finds that issuance of an annual cabaret or dance hall license under the current Cabaret Ordinance constitutes a current and immediate threat to the public health, safety, and welfare while the City Council is contemplating amendments to the Cabaret Ordinance and/or the Planning Regulations in that issuance of a license under the current regulations may conflict with changed requirements which will be studied.
4. The City Council finds that a temporary moratorium prohibiting the issuance of an annual cabaret or dance hall license is necessary in order to allow the City sufficient time to study, develop, consider, and adopt a comprehensive

proposal for amendments to the Cabaret Ordinance and or Planning Regulations relating to licenses.

SECTION THREE. APPLICATION; EXCEPTIONS.

This Interim Ordinance shall apply to prohibit the approval or issuance of an annual cabaret or dance hall license to be approved by the City Council of the City of Emeryville.

This Interim Ordinance shall not apply to, nor shall it prohibit, the issuance of a single cabaret or dance hall license as provided in Section 5-4.16 of the Emeryville Municipal Code.

SECTION FOUR. CEQA DETERMINATION

The City Council finds that adoption of this Interim Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to section 15061(b)(3) of the State CEQA Guidelines because it can be seen with certainty that there is no possibility that the adoption of this Interim Ordinance may have a significant effect on the environment.

SECTION FIVE. SEVERABILITY

Every section, paragraph, clause, and phrase of this Interim Ordinance is hereby declared to be severable. If for any reason, any section, paragraph, clause, or phrase is held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining section, paragraphs, clauses or phrases.

SECTION SIX. REPORT

In accordance with Government Code Section 65858 (d), ten days prior to the expiration of this interim ordinance the City Council shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of this ordinance.

SECTION SEVEN. EFFECTIVE DATE

This Interim Ordinance shall take effect immediately upon adoption, in accordance with California Government Code section 65858, and it shall continue in force thereafter for a period of forty five (45) days from its date of adoption, unless it is further extended in accordance with applicable law.

SECTION EIGHT. CODIFICATION

This Interim Ordinance shall NOT be codified in the Emeryville Municipal Code.

This Interim Ordinance was **PASSED AND ADOPTED** by the City Council of the City of Emeryville at a regular meeting held on Tuesday, November 3, 2015.

MAYOR

ATTEST:

APPROVED AS TO FORM:



CITY CLERK

CITY ATTORNEY