

RESOLUTION NO. 18-61

Resolution Of The City Council Of The City Of Emeryville Authorizing The Chief Of Police To Issue An Annual Cabaret License To Madison Marquette For Calendar Year 2018

WHEREAS, Emeryville Municipal Code 5-30.03 provides that a license is required to operate a cabaret in the City of Emeryville; and

WHEREAS, an applicant for a cabaret license is required to submit an application to the Police Department; and

WHEREAS, Madison Marquette submitted an application for an annual cabaret license for calendar year 2018 to the Emeryville Police Department; and

WHEREAS, the Chief of Police has conducted an investigation of the Madison Marquette application and has prepared a report and recommendation as required by the Emeryville Municipal Code; and

WHEREAS, the Chief of Police has recommended the application be approved and a license issued subject to conditions of approval; and

WHEREAS, the City Council held a public hearing on June 5, 2018, to consider the application, the report and recommendations by the Chief of Police, and the comments received from the public regarding the application; now, therefore, be it

RESOLVED, pursuant to Emeryville Municipal Code Section 5-4.07, the City Council of the City of Emeryville hereby approves an annual cabaret license for calendar 2018 to Madison Marquette, subject to the Conditions of Approval, attached hereto as Exhibit A, and authorizes the Chief of Police to issue said license.

ADOPTED, by the City Council of the City of Emeryville at a regular meeting held Tuesday, June 5, 2018, by the following vote:

AYES:	5	Mayor Bauters, Vice Mayor Medina and Council Members Donahue, Martinez and Patz
NOES:	0	
ABSTAIN:	0	
ABSENT:	0	

ATTEST:



CITY CLERK

MAYOR



APPROVED AS TO FORM:



CITY ATTORNEY



EXHIBIT A

CONDITIONS OF APPROVAL

**MADISON MARQUETTE BAY STREET
ANNUAL CABARET LICENSE**

- The Cabaret License would be valid from date of approval through December 31, 2018. Any Annual Cabaret License sought for subsequent years would require another application and an approval by the Emeryville City Council.
- The Annual Cabaret License if approved permits music to be played in the South End of Bay Street, commonly referred to as "The Outdoor Plaza" of Bay Street.
- Hours of operation for this Annual Cabaret License would be restricted to Monday to Sunday, between the hours of 11:00 am and 9:30pm
- No alcohol can be served or sold at any of these events without Madison Marquette first submitting an approval from Alcohol Beverage Control on Form ABC-221 for each event.
- Madison Marquette shall be required to designate a contact person from Madison Marquette for any and all complaints from the public and to interface with the Emeryville Police Department. This contact person shall be made known to the Emeryville Police Department and all complaining parties upon request. The contact person shall be immediately available for all concerns or complaints.
- Madison Marquette must maintain compliance at all times with Chapter 13 of the Emeryville Municipal Code (E.M.C.), commonly known as the City of Emeryville Noise Ordinance.
- In the event that an authorized agent of the City of Emeryville determines that Madison Marquette has violated the Noise Ordinance with live or amplified music during a cabaret event, he or she shall direct Madison Marquette to reduce the volume to a level that is compliant with the Noise Ordinance. In the event that an authorized agent of the City of Emeryville determines that Madison Marquette has violated the Noise Ordinance twice in the same calendar day, Madison Marquette shall immediately discontinue any and all music for the remainder of that calendar day.

Any violations of these conditions or any listed in EMC Code 5-4.24 by Madison Marquette's managers or employees, may result in suspension or revocation of this Annual Cabaret License, pursuant to E.M.C. Sections 5-4.08, 5-4.09. Violations may also be subject to Administrative Citations.



City of Emeryville

COPY

Cabaret Application

(FF-56, Rev.7/14)

For City Use Only: <input checked="" type="checkbox"/> Fee Collected	Annual Cabaret Permit <input checked="" type="checkbox"/> One Day Cabaret Permit []
By: <u>FIN. DEPT.</u>	Date of Application: <u>12/14/17</u>

APPLICANTS NAME

First: <u>BRIAN</u>	Middle: <u>JEFFREY</u>	Last: <u>LEE</u>
Home Address (No P.O. Boxes) Street: <u>[REDACTED]</u>		
City: <u>[REDACTED]</u>	STATE: <u>CA</u>	ZIP CODE: <u>94602</u>
Date of Birth: <u>[REDACTED]</u>	Height: <u>[REDACTED]</u>	Weight: <u>[REDACTED]</u>
	Hair Color: <u>[REDACTED]</u>	Eye Color: <u>[REDACTED]</u>
Telephone Home: <u>[REDACTED]</u>		Mobile: <u>[REDACTED]</u>
Name of Business: <u>BAY STREET EMERYVILLE</u>		
Address of Business: <u>5616 BAY STREET</u>		
Business Phone: <u>510-856-2886</u>		FAX#: <u></u>
Business Owned by: <input type="checkbox"/> Individual <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input checked="" type="checkbox"/> LLC		

I solemnly swear, under the penalty of perjury, that the answers I have made to each of the questions contained in this application are full and true to the best of my knowledge.

I understand that any false statements I knowingly make will disqualify my application to operate a Cabaret.

I understand that the Chief of Police, or his designated employee, will investigate all information supplied by me on this application and any attached pages. The Chief of Police may report to the City Manager and the City Council any offense(s) for which I have been convicted. I hereby give him permission.

I understand that this Cabaret Permit is subject to withdrawal, suspension, or revocation if I, or any of my employees, violate any provision(s) of local, State or Federal law applicable to such business.

I understand that at all times while engaged in such business, the Chief of Police, or his representative, shall have access to the proposed site, and to the business records of this applicant for the purpose of investigating compliance with the applicable provisions of the Emeryville Municipal Code, and all other State and Federal Law. I hereby consent to any such search and consequent seizure.

I have received and a read a copy of the Emeryville Municipal Code Sections 5-4.01 through 5-4.12 as amended up to the date of this application.

<u>Brian J. Lee</u>	<u>MARKETING DIRECTOR</u>	<u>12/13/17</u>		
Signature of Applicant	Title	Date	Witness:	Date:



City of Emeryville

Cabaret Application

Name of Cabaret: <u>BAY STREET EMERYVILLE</u>		(TF-57, REV 3/16)
FINANCIAL HISTORY STATEMENT		
<input type="checkbox"/> Individual	<input checked="" type="checkbox"/> Other (Please list below)	
<input type="checkbox"/> Partnership	<u>LLC</u>	
<input type="checkbox"/> Corporation	(Please only check one)	
Will you (Applicant) be an active participant in the management and operations of the proposed business?		
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <u>PERMIT REQUEST FOR SPECIAL EVENTS @ BAY STREET</u>		
INDIVIDUAL OWNERSHIP (Use this page for each individual in a partnership)		
Amount invested in this Business.	<u>N/A</u>	Percent of Ownership this represents. <u>N/A</u>
Investment is financed in the following manner: <u>N/A</u>		
Identify all sources of funds used for your investment in the business: <u>N/A</u>		
Do you control, manage, or hold in trust any assets or liabilities for other persons or entity? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
(If Yes, give Description of Assets/Liabilities held:		
Has your interest in this business establishment been assigned, or pledged to any person, firm, or corporation?		
<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
Has any agreement been entered into whereby your interest is to be assigned, pledged, or sold either in part or in whole? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
(If YES Explain in Detail):		
Have you ever filed for Bankruptcy? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
If YES, briefly describe circumstances and Name of Court where it was Filed.		
Have you been associated as an officer, director, stockholder, partner or sole proprietor with any business entity that has filed for protection under the Federal Bankruptcy Law? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO.		
If YES, Furnish the Facts on a separate page and list the Federal District Court where it was filed.		



City of Emeryville

Cabaret Application

Name of Cabaret:	BAY STREET EMERYVILLE	(TF-58, REV 3/16)
Have you attached the following documents?	Last Federal Income Tax Return (Individual and Business)	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
	List of Creditors (Include amount of Liability)	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
	Balance Sheet	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

STATEMENT OF ASSETS & DEBTS

Total Cash on Hand: \$	N/A
Bank Information:	
<input type="checkbox"/> Checking <input type="checkbox"/> Savings <input checked="" type="checkbox"/> Business <input type="checkbox"/> Personal <input type="checkbox"/> Notes Receivable	
Bank Name:	
Address:	

CRIMINAL HISTORY

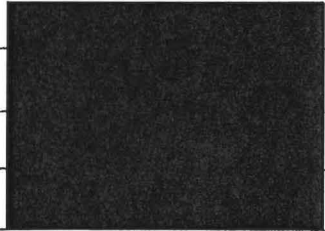
Have you ever been arrested or convicted of a crime?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO (If "YES" please explain below)



City of Emeryville

Cabaret Application

Emergency Contacts Information

Name	Job Title	Best Phone# to Contact
BRIAN LEE	MARKETING DIRECTOR	
NAT CENTENO	GENERAL MANAGER	
OLIVER CASILLAS	SECURITY DIRECTOR	
ELSIE HOWARD	ASST. GENERAL MANAGER	

Parties named in the application who have been arrested for any crimes:

Name	Crime/Offense & Date	Court Jurisdiction
N/A	N/A	N/A
↓	↓	↓
↓	↓	↓
↓	↓	↓
↓	↓	↓

Please use the area below to explain any criminal history not listed above:

N/A



City of Emeryville

Cabaret Application

Name of Cabaret: BAY STREET EMERYVILLE

(TF-60, REV 3/16)

COMPLETE THIS PORTION IF PROPOSED LICENSEE IS A CORPORATION:

Complete Title:		, INC.
State in which incorporated:		
NAME, HOME ADDRESS, BUSINESS, HOME & CELLULAR TELEPHONE NUMBERS FOR THE BOARD OF DIRECTORS OF THE CORPORATION, INDICATE TITLE OF CORPORATION OFFICERS.		
PRESIDENT/CEO:		
VICE PRESIDENT:		
SECRETARY:		
TREASURER/CFO: N/A		
MEMBER:		
MEMBER:		
MEMBER:		
<u>SHARE HOLDERS:</u> PLEASE PROVIDE NAMES, ADDRESSES AND PHONE NUMBERS OF ALL SHARE HOLDERS:		



City of Emeryville

Cabaret Application

Name of Cabaret: BAY STREET EMERYVILLE

(TF-61, REV 3/16)

COMPLETE THIS PORTION IF PROPOSED LICENSEE IS A PARTNERSHIP

Complete Title:	
State in which Partnership formed:	
NAME, HOME ADDRESS, BUSINESS, HOME & CELLULAR TELEPHONE NUMBERS FOR ALL PARTNERS;	
PARTNER:	
PARTNER:	
PARTNER:	
PARTNER:	N/A
PARTNER:	
PARTNER:	
PARTNER:	
DESCRIBE BELOW THE PERCENTAGE OF OWNERSHIP FOR EACH PARTNER:	

City of Emeryville

Cabaret Application

Name of Cabaret:

BAY STREET EMERYVILLE

(TF-62, REV 3/16)

ROSTER OF EMPLOYEES WHO WILL BE PRESENT DAY OF EVENT

[illegible]



City of Emeryville

1333 Park Avenue
Emeryville, CA 94608

INVOICE

INVOICE #2018
DATE: DECEMBER 14, 2017

TO:
BAY STREET
5616 BAY STREET
EMERYVILLE, CA 94608

FOR: ANNUAL CABARET PERMIT

DESCRIPTION	AMOUNT
ANNUAL CABARET PERMIT	\$1425.00
Make all checks payable to City of Emeryville Payment is due upon receipt of this invoice If you have any questions concerning this Invoice, contact Desiri Vink at (510)596-4325 Thank you for your business! COPY	
TOTAL	\$1425.00

12/14/17

Print

Amount: 1,425.00

[illegible]



Chief of Police
Jennifer G. Tejada

Police Department
City of Emeryville

MEMORANDUM

Rec'd 5/7/18



Date: 12/16/17

To: Chief Jennifer Tejada

From: Acting Sergeant Brian Head

Subject: Annual Cabaret Permit Investigation for "Bay Street Emeryville"

SUMMARY

An initial Police Department investigation has disclosed some information that would base a denial of a City of Emeryville Annual Cabaret Permit to the premise listed unless the subjects to the Conditions of Approval are not adhered to as set below.

DISCUSSION

The Emeryville Municipal Code Section 5-4.02 requires City Council Approval of every commercial operation of a Cabaret within the City Limits.

INVESTIGATION

Chapter 4 of Title 5 of the Emeryville Municipal Code governs "cabarets and dances". This section requires the Emeryville Police Department conduct an investigation of the applicant to insure compliance with the restrictions of the ordinance.

Section 5-4.02(c) defines a cabaret as "Any event of place where live entertainment is provided by or for any patron or guest....to which admission may be gained by the public generally with or without payment of a fee or cover charge or the purchase or presentation of a ticket...."

Currently, Bay Street Emeryville does have a valid 2017 Cabaret Permit with the City of Emeryville. Bay Street Emeryville is a business in the City of Emeryville. Bay Street Emeryville's address is 5616 Bay Street, Emeryville, CA 94608. Cabaret permits are issued on a one-day or annual permit basis and only after the approval of the Chief of Police.

Bay Street Emeryville is seeking an Annual Cabaret Permit to present live music entertainment and supply background music at their facility. These events will take place from 11:00AM to 9:30PM, Monday through Sunday, for "various special event usage". These are public events.

The estimated attendance of these events varies. Alcohol may be sold and/or served at certain events. Trader Vic's has a valid ABC permit on file with the California Bureau of Alcohol and Beverage Control, license number- 47-41474.

For the calendar year of 2017, Bay Street Emeryville had a total of (26) calls for service, less (2) traffic stops at the location that were not related to the business. Of the calls for service, (7) were noise related. (See attached print out)

Bay Street Emeryville carries a liability insurance policy through Federal Insurance Co (#9947-59-61) . The policy is for \$1,000,000 each occurrence. Bay Street Emeryville will have staff members on site to monitor all events. Bay Street Emeryville staff members functions are to problem solve if issues occur. Bay Street Emeryville has a full-time uniformed security force on site during their events.

The security is provided by Overton Security and Quality Control Manager Oliver Casillas.

CONDITIONS OF APPROVAL

- The Cabaret Permit will only be valid from January 1, 2018 through December 31, 2018. All future permits will be submitted, in writing, as this permit had been. Fees are subject to change.
- The Cabaret Permit if issued would only be valid during the date and hours of this annual event; 11:00AM to 9:30PM, Monday through Sunday.
- This Cabaret Permit would only allow the music to be played at Bay Street Emeryville on the exterior patio of the event; 11:00AM to 9:30PM, Monday through Sunday.
- Bay Street Emeryville, shall designate a contact person for all complaints from the public. The contact person shall be immediately available for all complaints or concerns. Bay Street Emeryville has named the following persons to be those who are the main contacts:
 - 1) Brian Lee – Marketing Director (510) 934-0057
 - 2) Nat Centero – General Manager (703) 200-8030
 - 3) Oliver Casillas – Security Director (510) 376-8818
 - 4) Elsie Howard- Asst. General Manager (415) 637-9921
- If any noise complaints are received by the Emeryville Police Department, Bay Street Emeryville shall, as soon as possible, mitigate the noise to an acceptable level or immediately discontinue any amplified sound that is causing the disturbance.
- Any violations of these conditions and/or any of the conditions set forth in Emeryville Municipal Code 5-4.24 MAY result in immediate suspension of this Annual Permit.

Brian Lee, Marketing Director of Bay Street Emeryville completed and submitted the Cabaret Permit Application on behalf of Bay Street Emeryville.

Brian Lee will be the primary point of contact at (510) 934-0057.

CONCLUSION:

The Emeryville Police Department's Criminal Investigation Services (CIS) has found no reason to deny this permit.

As of this writing, there are no outstanding circumstances to be found.

☒ Approved

☐ Not Approved

Jennifer Tejada
Chief of Police

By:

Brian Head *BH*
Acting Detective Sergeant
Criminal Investigation Services
510-596-3774
bhead@emeryville.org