



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: July 9, 2019
TO: Christine Daniel, City Manager
FROM: Sheri Hartz, City Clerk
SUBJECT: Resolution Of The City Council Of The City Of Emeryville Accepting Certification Of The Results Of A Full Check Of Signatures On A Referendum Petition As Performed By The Alameda County Registrar Of Voters Using Official Voter Registration Records

An Ordinance Of The City Council Of The City Of Emeryville Repealing Ordinance No. 19-007 Regarding Amendments To Chapter 37 Of Title 5 Of The City Of Emeryville Municipal Code, "Minimum Wage, Paid Sick Leave, And Other Employment Standards"; CEQA Determination: Exempt Pursuant To State CEQA Guidelines Sections 15324 And 15061(b)(3)

- OR -

Resolution Of The City Council Of The City Of Emeryville Ordering The Submission To The Qualified Electors Of The City Of Emeryville A Measure To Vote On A Referendum Submitted Against Ordinance No. 19-007, An Amendment To Chapter 37 Of Title 5 Of The Emeryville Municipal Code, "Minimum Wage, Paid Sick Leave, and Other Employment Standards"

PLEASE NOTE:

As of the publication of this agenda item, the Alameda County Registrar of Voters ("Registrar") has not returned the certification of their final full count of signatures on the referendum petition to the City's Elections Official, the City Clerk. This item is a placeholder pending the City's receipt of the results from the Registrar. If the results of the count are not received prior to the July 9, 2019 City Council regular meeting, the item will be scheduled for the next regular meeting.

RECOMMENDATION

Staff recommends that the City Council approve the above-entitled Resolution Accepting Certification of a Petition entitled "Referendum Against an Ordinance Passed by the City Council", referencing Ordinance No. 19-007, An Ordinance Of The City Of Emeryville Amending Sections 5-37.01 And 5-37.02 Of Chapter 37 Of Title 5 Of The City Of Emeryville Municipal Code With Respect To The Minimum Wage For Employees Of Small Independent Restaurants.

Staff further recommends the City Council either: 1) adopt the first reading and introduction of the above-entitled Ordinance to repeal Ordinance No. 19-007 amending

Chapter 37 of Title 5 of the Emeryville Municipal Code, “Minimum Wage, Paid Sick Leave, and Other Employment Standards”; **OR** 2) approve the above-entitled Resolution placing the referendum petition on the ballot for the next regular municipal election in November 2020.

BACKGROUND

At its May 21, 2019 meeting, the City Council approved the first reading and introduction of Ordinance No. 19-007 to amend Chapter 37 of Title 5 of the Emeryville Municipal Code, “Minimum Wage, Paid Sick Leave, and Other Employment Standards”. Ordinance No. 19-007 was subsequently adopted after its second reading on May 29, 2019 and attested by the City Clerk on May 30, 2019. Following that adoption, a referendum petition against Ordinance No. 19-007 was circulated and submitted to the City Clerk on June 25, 2019.

Elections Code §9237 provides that a petition protesting adoption of an ordinance must be signed by not less than 10% of the registered voters of the City, according to the Alameda County Registrar of Voters’ (“Registrar”) last official report of registration. For the City of Emeryville, that number, as of the publication of this report, is 6,653, of which 666 signatures constitute 10%. The petition must also be submitted within 30 days of the date the ordinance in question is attested by the city clerk.

Following a prima facie review of signatures by the City Clerk and a full check of signatures as compared to the official records of voter registration, performed by the Registrar, the City Clerk as the City’s Elections Official certifies that the petition proponent has gathered the requisite number of signatures. Once the City Clerk certifies the referendum petition, Ordinance No. 19-007 is suspended, and the City Council must reconsider the ordinance.¹ Upon reconsideration, the City Council must either repeal the ordinance in question in its entirety; or place the referendum on the ballot for a vote of the people at the next regular municipal election².

DISCUSSION

The referendum petition was timely submitted and contained verified signatures of Emeryville registered voters which met the 10% requirement. Once the City Clerk certifies the required number of signatures, Ordinance 19-007 is suspended until it is reconsidered by the Council, and either repealed entirely or, following its placement on the ballot for a vote of the people, the results of that election are adopted by resolution. During suspension of Ordinance No. 19-007, the prior version of Chapter 37 of Title 5 of the Emeryville Municipal Code, “Minimum Wage, Paid Sick Leave, and Other Employment Standards” would remain in effect as originally adopted, and all wages will be adjusted to \$16.30 per hour for all employers subject to the Minimum Wage Ordinance as of the date of official Council action, as follows.

As provided for in Elections Code §§ 9237 and 9241, the City Council shall either:

¹ Elections Code §9237

² Elections Code §9241

1. Reconsider and repeal Ordinance No. 19-007; or
2. Place the referendum petition on the ballot for the General Municipal Election to be held on November 3, 2020; or
3. Place the referendum petition on the ballot at a Special Election set for the purpose.

If put before the voters, the question to be voted on would be as follows:

“Shall the City of Emeryville repeal in its entirety Ordinance No. 19-007, entitled “An Ordinance Of The City Of Emeryville Amending Sections 5-37.01 And 5-37.02 Of Chapter 37 Of Title 5 Of The City Of Emeryville Municipal Code With Respect To The Minimum Wage For Employees Of Small Independent Restaurants”.

_____ YES _____ NO

Pursuant to Elections Code §9241, if the Council does not entirely repeal the ordinance against which the petition was filed, the matter shall be submitted to the voters at “the next regular municipal election”. In the City of Emeryville, regular municipal elections are held in November of even numbered years³, and the next regular municipal election will be held on Tuesday, November 3, 2020 for the election of three at-large seats City Council seats. If the Council chooses to place the measure on the ballot for the November 3, 2020 election, the referendum measure would be an additional item on a ballot. Were Council to choose to call a Special Election, per Elections Code §9241, that election would need to occur not less than 88 days after the Council decision. The earliest a Special Election could be called, if the decision is made on July 9, 2019, would be on or about October 7, 2019. Alternatively, the Council could set a Special Election at a later date if it so chose. Costs associated with a Special Election are outlined below in the Fiscal Impact section of this report.

If the voters **approve** Ordinance No. 19-007 in an election by voting against the referendum, the Ordinance would take effect upon certification of that election’s results. If the voters **disapprove** Ordinance No. 19-007 by voting in favor of the referendum, the Ordinance would not go into effect and the prior version of Chapter 37 of Title 5 would stand, with the wage rates prior to adoption of Ordinance No. 19-007 in effect. A simple majority is required to either approve or repeal Ordinance No. 19-007.

Pursuant to Elections Code §9241, “If the legislative body repeals the ordinance or submits the ordinance to the voters, and a majority of the voters do not vote in favor of the ordinance, the ordinance shall not again be enacted by the legislative body for a period of one year after the date of its repeal by the legislative body or disapproval by the voters.

³ Emeryville Municipal Code §2-2.214

FISCAL IMPACT

TYPE OF ELECTION	COST PER VOTER*	TOTAL RANGE FOR 6653 REGISTERED VOTERS
Standalone Special City Or District	\$12 - \$15	\$79,836-\$99,795
Standalone All Vote by Mail	\$7 - \$9	\$46,571-\$59,877
Countywide Consolidated	\$4 - \$6	\$26,612-\$39,918

It should be noted that the listed cost per voter excludes the cost of printing the Sample Ballot as well as the cost of translation into Spanish, Chinese, Tagalog and Vietnamese, which have historically added approximately another \$2,000 to the cost. The above are estimates only and are subject to change.

STAFF COMMUNICATION WITH THE PUBLIC

The City's website has included updates on the referendum process discussed in this report.

PREPARED BY: Sheri Hartz, City Clerk

**APPROVED AND FORWARDED TO THE
CITY COUNCIL OF THE CITY OF EMERYVILLE:**



Christine Daniel, City Manager

ATTACHMENTS

- Draft Resolution Accepting Certification of Referendum Petition As Sufficient
- Exhibit A: ROV Certification of Qualification of Referendum Petition
- Draft Ordinance to Repeal Ordinance No. 19-007
- Draft Resolution Placing a Measure on the Ballot