

6 VOTES REQUIRED FOR PASSAGE

05 JUL - 7 PM 4:08

Approved as to form and legality

INTRODUCED BY COUNCILMEMBER _____

Mark P. Wald

CITY ATTORNEY

Ordinance No. 12693 C.M.S.

EXTENSION OF EMERGENCY ORDINANCE NO. 12566 C.M.S., PURSUANT TO CHARTER SECTION 213, EXTENDING INTERIM CONTROLS FOR CONDITIONAL USE PERMITS, VARIANCE AND RELATED FINDINGS FOR SIGNS AND SUSPENDING CONFLICTING PROVISIONS, TO TAKE EFFECT IMMEDIATELY UPON INTRODUCTION AND ADOPTION

WHEREAS, the Oakland Municipal Code and the Oakland Planning Code (“OPC”) regulate various types of signs and the OPC prohibits new Advertising Signs; and

WHEREAS, the OPC allows variances as exceptions to the strict requirements of the zoning regulations; and

WHEREAS, the City is currently involved in litigation challenging the constitutionality of Oakland’s sign regulations; and

WHEREAS, questions have arisen concerning the constitutionality of the variances and conditional use permit (“CUP”) provisions as they relate to signs; and

WHEREAS, the City has represented to the federal court that it is amending the OPC to address the constitutional issues; and

WHEREAS, the City of Oakland has received applications for Advertising and other signs that would require a CUP or variance from the OPC; and there is therefore an urgent need to revise the regulations in order to avoid a direct threat to health, safety, and welfare of the surrounding community and to remove (moot) the issue from the current litigation; and

WHEREAS, based upon the foregoing, the City Council adopted Emergency Ordinance No. 12566 C.M.S. on December 16, 2003 (Emergency Ordinance); and

WHEREAS, the Emergency Ordinance technically expired one year from the date of its adoption, pursuant to Section 5, but the City has continued to process applications as if the Emergency Ordinance was still in full force and effect; and

WHEREAS, the City believed that it would not be prudent to adopt permanent amendments to the Oakland Municipal Code, due to the time and expense of processing such permanent amendments, until the courts finally ruled on the matter; and

WHEREAS, Desert Outdoor has appealed the District Court's decision and recently contended in its opening appellate brief that the Emergency Ordinance expired and therefore it has no affect on this case; and

WHEREAS, there is insufficient time to develop permanent controls and present them to the City Planning Commission and City Council for review, recommendation, and adoption; and

WHEREAS, it is in the best interests of the City to immediately extend the Emergency Ordinance; and

WHEREAS, for the reasons set forth above, pursuant to City Charter section 213, the Council declares that this ordinance is necessary to preserve the public peace, health, or safety and to avoid a direct threat to the health, safety, and welfare of the community, and the "Whereas" clauses above taken together constitute the City Council's statement of the reasons constituting such necessity and emergency.

NOW, THEREFORE, the Council of the City of Oakland does ordain as follows:

SECTION 1. The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this ordinance.

SECTION 2. The City Council finds and determines, for the reasons stated in the recitals, the extension of this ordinance is exempt from CEQA under Sections 15061(b)(3), 15301, 15302, 15303, 15307, 15308 and 15311 of the State CEQA Guidelines.

SECTION 3. The duration of the Emergency Ordinance is extended for eighteen (18) months, or until 90 days after a final decision from the Court of Appeals when the City Council will adopt permanent amendments to the Planning Code and/or Municipal Code regarding the subject matter of this ordinance for codification.

SECTION 4. All other provisions of Emergency Ordinance No. 12566 C.M.S. shall remain in full force and effect.

SECTION 5. The City has interpreted Emergency Ordinance No. 12566 C.M.S. to require that a variance be applied for instead of a conditional use permit and that

interpretation shall continue for the term of this ordinance.

SECTION 6. This ordinance shall be effective immediately upon its adoption by the City Council, subject to the provisions of Section 216 of the Charter of the City of Oakland.

SECTION 7. This Ordinance is enacted pursuant to the City of Oakland's general police powers, Sections 106 and 213 of the Charter of the City of Oakland, and Article XI of the California Constitution.

Introduction Date: JUL 19 2005

In Council, Oakland, California, July 19, 2005, Passed By The Following

Vote:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL,
REID, QUAN, AND PRESIDENT DE LA FUENTE - 8

NOTES- 0

ABSENT- 0

ABSTENTION- 0

Attest: 
LATONDA SIMMONS

CITY CLERK AND CLERK OF THE COUNCIL
OF THE CITY OF OAKLAND, CALIFORNIA

EXTENSION OF EMERGENCY ORDINANCE NO. 12566 C.M.S., PURSUANT TO CHARTER SECTION 213, EXTENDING INTERIM CONTROLS FOR CONDITIONAL USE PERMITS, VARIANCE AND RELATED FINDINGS FOR SIGNS AND SUSPENDING CONFLICTING PROVISIONS, TO TAKE EFFECT IMMEDIATELY UPON INTRODUCTION AND ADOPTION

NOTICE AND DIGEST

By this ordinance, the Oakland City Council extends interim controls, for an eighteen (18) month period, for conditional use permit and variance and related findings for signs.