

OFFICE OF THE CITY CLERK  
APPROVED AS TO FORM AND LEGALITY  
2007 NOV 20 PM 3:35

**REVISED**  
NOV 20 2007

*Scott C. R. Jackson*  
Deputy City Attorney

INTRODUCED BY CITY COUNCIL MEMBER \_\_\_\_\_

ORDINANCE NO. 12855 C.M.S.

**ADOPT AN ORDINANCE AMENDING OAKLAND MUNICIPAL CODE CHAPTER 5.12, "CABARETS" TO (1) ALLOW DISCRETION IN PERMITTING CABARETS WITHIN 300 FEET OF PLACES OF PUBLIC WORSHIP, PUBLIC SCHOOLS, AND PUBLIC LIBRARIES AND 2) REQUIRE BACKGROUND CHECKS FOR CABARET PERMIT APPLICANTS.**

**WHEREAS**, Oakland Municipal Code Chapter 5.12 currently prohibits, without exception, the location of cabarets within 300 feet of places of worship, public schools, and public libraries: and

**WHEREAS**, the potential effect of a cabaret upon a school should be considered regardless of whether the school is a public or private school; and

**WHEREAS**, some cabaret activity may be determined to be appropriate to be conducted within reasonable proximity to places of worship, schools, and public libraries

**WHEREAS**, some cabaret activity may be conducted at times that do not conflict with the activities of nearby places of worship, schools, and public libraries and conditions may be placed upon these cabarets to ensure there are no negative residual impacts upon these places of worship, schools and public libraries; and

**WHEREAS**, the criminal background of an applicant for a cabaret permit is a factor that should be considered when granting or denying the permit, pursuant to Oakland Municipal Code Section 5.02.060's mandate that the City Administrator "consider the character of the applicant as respects morality, honesty and integrity, and all pertinent acts which may concern the health, safety, and general welfare of the public",

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

**SECTION 1.** It is the intent of the City Council in enacting this ordinance, to encourage responsible businesses in the development of Oakland's nighttime entertainment venues, while providing for the safety of Oakland residents, protecting the sanctity of the activities of places of worship, schools, and libraries,

and enabling the Oakland Police Department to be effective in preventing violence and maintaining the peace.

**SECTION 2.** The City Council finds and determines the forgoing recitals to be true and correct and hereby makes them a part of this ordinance.

**SECTION 3.** The City Council finds and determines that the adoption of this Ordinance is exempt from CEQA under Sections 15061(b)(3) of the State CEQA Guidelines and authorizes the filing of a Notice of Exemption with the Alameda County Clerk.

**SECTION 4.** Oakland Municipal Code Chapter 5.12 is hereby amended to read as follows; additions are indicated by underscoring and deletions are indicated by ~~strike-through type~~; portions of the regulations not cited or not shown in underscoring or strike-through type are not changed:

## **Chapter 5.12 CABARETS**

### **5.12.010 Cabaret defined.**

### **5.12.020 Permit required.**

### **5.12.030 Regulations.**

### **5.12.040 Booths and entertainers.**

### **5.12.050 License tax.**

### **5.12.010 ~~Cabaret defined.~~ Definitions**

#### As used in this chapter:

A "cabaret" shall be construed to include any place where the general public is admitted, where entertainment is furnished by or for any patron or guest present upon the premises, including but not limited to singing, vaudeville and dancing, and where liquid refreshments or foods are sold; provided, however, that any place where entertainment is furnished by the mechanical or electronic reproduction of pre-recorded music or radio broadcasts or by motion pictures, shall not be construed to be a cabaret within the meaning of this section unless dancing privileges are afforded in connection therewith.

B. "Disqualifying offense" means any offense which disqualifies an applicant from obtaining a permit pursuant to this chapter or which mandates revocation of the permit if the offender already holds a permit. Disqualifying offenses are:

1. Conviction, plea of nolo contendere, plea bargain, or forfeiture pertaining to any felony offense involving the sale of a controlled substance specified in

Section 11054, 11055, 11056, 11057 or 11058 of the Health and Safety Code of the state of California;

2. Violation of any provision of this chapter that has resulted in a suspension or revocation of any permit issued under this chapter, or violation of a similar law in any other jurisdiction, within the past five years that has resulted in a suspension or revocation of a permit under that law;

3. Conviction, plea of nolo contendere, plea bargain, or forfeiture on a charge of committing a violent crime or a crime of dishonesty, fraud or deceit with an intent to substantially injure another;

#### **5.12.020 Permit required.**

A. It is unlawful for any person to own, conduct, operate or maintain, or to participate therein, or to cause or to permit to be conducted, operated, or maintained, any cabaret in the city unless there exists a valid permit therefor, granted and existing in compliance with the provisions of Chapter 5.02. The application for such permit shall set forth, in addition to the requirements specified in Section 5.02.020, the fact that the proposed location of such cabaret is not within three hundred (300) feet of any church or synagogue or any building in use as a place of public worship or public school or public library. This requirement may be waived only if the City Administrator makes written findings that the cabaret will not have a negative impact on City resources, public safety and neighborhood quality of life. Public notice shall be given as provided in Section 5.02.050, and the investigating official referred to in Section 5.02.030 to whom the application shall be referred, shall be the Chief of Police. In recommending the granting or denying of such permit, the Chief of Police, and in granting or denying the same, the City Manager Administrator, shall give particular consideration to the peace and order and moral welfare of the public.

B. A cabaret permit shall not be issued to any cabaret where any owner(s), operator(s), or other party with an interest in the cabaret has committed a disqualifying offense as defined in Section 5.12.010.

#### **5.12.025 Application review process.**

A. Application Filing. All applications for permits issued pursuant to this chapter, including renewals, shall be filed in the Office of the City Administrator. The City Administrator shall receive any fee required for the application, ensure that the application is complete, and refer the application to the Chief of Police for investigation, review and recommendation.

B. Investigation. The City Administrator shall refer the application to the Chief of Police who shall conduct background investigations on all applicants requesting permits under this chapter. Where the applicant(s) is any type of association, partnership, corporation or other entity, background investigations of all publicly named or registered persons, officers, directors, managers and shareholders within those entities shall be conducted as appropriate. The applicant shall be

fingerprinted and photographed and consideration shall be given to their criminal record, if any. After reviewing the information obtained, the Chief of Police shall transmit in writing any recommendation or findings from the investigation to the City Administrator and shall give particular consideration to the safety and general welfare of the public. The City Administrator shall also refer the application to other city and county agencies as appropriate and warranted to ensure compliance with existing state, county and local laws.

#### **5.12.030 Regulations.**

It is unlawful for any person operating a cabaret under the provisions of Section 5.12.020, or any cabaret whatsoever, in the city, or any agent, employee or representative of such person to permit any breach of peace therein or any disturbance of public order or decorum by any tumultuous, riotous or disorderly conduct, or otherwise, or to permit such cabaret to remain open, or patrons to remain upon the premises, between the hours of two a.m. and six a.m. next ensuing.

#### **5.12.040 Booths and entertainers.**

It is unlawful for any person operating a cabaret under the provisions of Section 5.12.020, or any cabaret whatsoever in the city, or any agent, employee or representative of such person, to erect, construct, maintain, or cause or permit to be erected, constructed or maintained, within such cabaret any private rooms, booths or compartments, or any closed stalls, or any alcoves of any nature, so arranged that the entire inner portion of the same shall not at all times be visible; or to permit any conduct in such place prejudicial to public morals, or to permit any entertainment in such cabaret, except that which is furnished by entertainers employed by the management of such cabaret.

**5.12.050 License tax.**

Every person conducting, managing or maintaining the business of a cabaret in the city shall pay a license fee of three-hundred dollars (\$300.00) annually in advance, and shall keep a copy of the license issued by the Business Tax Office, together with a copy of the cabaret permit issued pursuant to the provisions of Section 5.12.020, together with a copy of this chapter, including the regulations set forth in Section 5.22.020 and incorporated in Section 5.12.030, posted in a conspicuous place in the premises maintained as such cabaret at all times during which such cabaret is being operated.

IN COUNCIL, OAKLAND, CALIFORNIA, JAN 15 2008, 20    

**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and ~~PRESIDENT DE LA FUENTE~~ - 7

NOES- 0

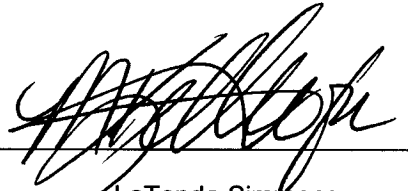
ABSENT- 0

ABSTENTION- 0

Excused- De la Fuente - 1

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ATTEST:



LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

Introduction Date: **DEC 18 2007**

# Notice & Digest

**An Ordinance Amending Oakland Municipal Code Chapter 5.12, "Cabarets" To (1) Allow Discretion in Permitting Cabarets Within 300 Feet of Places of Public Worship, Schools, and Public Libraries and 2) Require Background Checks for Cabaret Permit Applicants.**

This is an ordinance amending Oakland Municipal Code Chapter 5.12 to allow the City Administrator discretion in permitting cabarets that are within 300 feet of places of public worship, schools, and public libraries upon a written finding that the cabaret will not have a negative impact on City resources, public safety and neighborhood quality of life. It authorizes background checks of cabaret applicants and enumerates offenses which disqualify applicants from obtaining cabaret permits.