

REVISED

2015 JAN 29 PM 12: 20

APPROVED AS TO FORM AND LEGALITY

DRAFT

INTRODUCED BY COUNCILMEMBER _____

CITY ATTORNEY

ORDINANCE NO. _____ C.M.S.

**ORDINANCE AMENDING OAKLAND MUNICIPAL CODE
CHAPTER 5.12.040 CABARET EXTENDED HOURS PERMIT PROCESS
TO MAKE THE PILOT PROGRAM A PERMANENT PART
OF THE OMC.**

WHEREAS, cities regulate late night eating and drinking and entertainment establishments in a way that concentrates them in certain areas by market forces as well as local regulation; and

WHEREAS, the Oakland police department experiences mass exodus of cabaret patrons when large cabaret venues all close at 2 a.m. which causes traffic and crowd congestion and related public safety problems; and

WHEREAS, the City has determined that when entertainment establishments close early, patrons often drink when the bar closes and drive shortly afterward, and when establishments remain open later patrons can leave at a time of their choosing and in this way moderate the pace of consumption; and

WHEREAS, a cabaret permit maybe denied or an existing cabaret permit suspended or revoked on the basis of a disqualifying offense as defined in Oakland Municipal Code Chapter 5.12; and

WHEREAS, Oakland Municipal Code Chapter 5.12 allows no one to remain on the premises of a cabaret establishment between the hours of 2 a.m. and 6 a.m. except through the extended hour cabaret permit program; and

WHEREAS, the growing Central District cabaret entertainment sector is critical to sustaining and developing economic development and a vibrant cultural life in the city;

WHEREAS, and immediate suspension procedure exists for extended hour hours permits;

NOW THEREFORE, THE COUNCIL OF THE CITY OF OAKLAND ORDAINS AS FOLLOWS:

S 7.16

Section 1 - The City Council does hereby find and declare that above recitals are true and correct and hereby makes them a part of this Ordinance.

Section 2 - Chapter 5.12.040 (Extended Hours Permit Process) of the Oakland Municipal Code is amended as set forth below. Additions are indicated by underscored type, while deletions are indicated by ~~strikethrough~~ type:

5.12.040 - Extended Hours Permit Process.

A. An extended hours permit shall be required for cabaret operation between the hours of 2:00 a.m. and 5:00 a.m.

~~B. The pilot extended hours permit program will commence on May 30, 2010, or as soon as practicable thereafter, with all applications due by June 11, 2010. Following the public hearings process, all permits will be issued on July 30, 2010 for an 18-month period.~~

~~B.~~ B. A maximum of ten extended hours permits shall be issued during the two-year pilot program in the City's Central District (defined as within the boundaries of I-980 and Brush Street to the west; 27th Street to the north; Harrison Street/Lake Merritt and the Lake Merritt Channel to the east; and the Estuary to the south) per Oakland Planning Code Subsection 17.102.210 B.1.a.

~~B.C.~~ B.C. The permits shall be issued at the discretion of the City Administrator or his/her designee to existing cabarets in good standing following a public hearing conducted according to the requirements of Chapter 5.02, and based on an evaluative point system that takes into consideration the operating history and business practices of the applicant, and any other factors that is deemed necessary to the peace, order and welfare of the public. Such issuance shall factor into consideration and give great weight to the recommendation of the Chief of Police or his/her designee. A proposed extended hours permittee may be denied for failure to meet requirements of the City building code, City fire code, City planning code, this Code, any violation of State or local law relevant to the operation of cabarets.

~~B.D.~~ B.D. The City Administrator shall establish conditions of approval, including but not limited to a security plan, parking plan, and set hours of operations. Set hours may be adjusted only pursuant to 30 days notification to and approval by the City Administrator's Office.

~~B.E.~~ B.E. Permittees must submit a monthly calendar of events to the City Administrator's Office and to the special events unit of OPD. Calendars shall be submitted 30 days in advance.

~~B.F.~~ B.F. The permit shall be subject to suspension or revocation according to the standards of Chapter 5.02, and the owner/operator shall be liable for excessive police costs related to enforcement. The Chief of Police, in his or her discretion, may immediately suspend, and recommend for revocation, such permit for any reason for which the granting of such permit might be lawfully denied, to protect the person and property of patrons of the location, or to protect the safety and welfare of the general public. Such suspension shall last no longer than is practically necessary to schedule a due process hearing on the merits of the revocation and the

recommendation by the Chief of police or his/her designee to revoke the permit. A hearing to show cause must be held within ten business days from the date of suspension, except that such suspension cannot exceed ten days. If such suspension was the result of violent crime, narcotic related crime, melee, or gang activity emanating from or occurring on the premises the suspension shall not be removed until a final decision from the hearing officer has been rendered. All other suspensions may be removed prior to the hearing if the hearing cannot be held within ten days although the decision of the hearing officer may include additional suspension or revocation of the permit.

H.G. The application fee and annual fee for the extended hours permit shall be specified in the master fee schedule.

I.H. A business whose extended hours permit is denied, suspended, or revoked may request a hearing to show cause why the permit should not be denied, suspended, or revoked. The hearing shall be conducted by an Administrative Hearing Officer, as defined in Chapter 5.02

Section 3 - The City Council finds and determines that the adoption of this Ordinance is exempt from the California Environmental Quality Act ("CEQA"), including under section 15061(b)(3) of the State CEQA guidelines, and authorizes the filing of a Notice of Exemption with the Alameda County Clerk.

Section 4 - If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses, or phrases may be declared invalid or unconstitutional.

Section 5 - This Ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

Section 6 - This Ordinance is enacted pursuant to the City of Oakland's general police powers, Section 106 of the Charter of the City of Oakland, and Article XI of the California Constitution.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2015

PASSED BY THE FOLLOWING VOTE:

AYES-

NOES-

ABSENT-

ABSTENTION-

Attest:

LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

S 7.16

MEETING OF THE
OAKLAND CITY COUNCIL

FEB 03 2015