

ORDINANCE 2009 - 11

ORIGINAL

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYSIDE, WASHINGTON, ADOPTING AN IMMEDIATE MORATORIUM ON THE ACCEPTANCE OF APPLICATIONS FOR AND ISSUANCE OF ANY LICENSE, PERMIT OR APPROVAL CURRENTLY REQUIRED FOR DANCE HALLS, PUBLIC DANCES, CABARETS, NIGHTCLUBS OR ANY BUSINESS LICENSE FOR USES AS DESCRIBED IN CHAPTER 5.28 OF THE SUNNYSIDE MUNICIPAL CODE OR OTHER APPLICABLE CODE CHAPTER, TO BE EFFECTIVE FOR A PERIOD OF 180 DAYS, SETTING A DATE FOR PUBLIC HEARING ON THE MORATORIUM, DIRECTING DEVELOPMENT OF A COMPREHENSIVE ORDINANCE FOR SUCH USES, ENCOURAGING PARTICIPATION OF INTERESTED PERSONS WHO WISH TO PARTICIPATE IN THE DEVELOPMENT OF SUCH ORDINANCE, AND DECLARING AN EMERGENCY**

**WHEREAS**, in conformance with the State Growth Management Act, the City is required to adopt, review, develop and implement a comprehensive plan, as well as a zoning code and land use regulations consistent with that plan; and

**WHEREAS**, in the future, the City could receive applications for dance halls, public dances, cabarets, nightclubs and similar uses that would significantly increase the amount of commercial space characterized by such uses and located within the City; and

**WHEREAS**, the Municipal Code may not currently adequately address the various impacts to public health, safety, morals and general welfare that these uses present; and

**WHEREAS**, other cities in the state and region, and elsewhere in the country, have adopted ordinances regulating such uses, based upon evidence of the negative secondary effects of such uses; and

**WHEREAS**, the state legislature has recently adopted laws pertaining to liquor licensing for nightclubs which feature uses currently permitted within the City of Sunnyside's codes pertaining to dance halls, public dances, cabarets and similar uses; and

**WHEREAS**, the citizens would be well served if the City Council and City staff could more fully address and understand the potential negative secondary effects of uses, in the form of health, safety, economic and aesthetic impacts that these uses could impose upon neighboring properties and on the community as a whole; and

**WHEREAS**, the City needs to review existing information on the negative secondary effects of such uses, and to review the City's Code and ordinances in a comprehensive fashion to determine whether they sufficiently address the secondary effects of such uses; and

**WHEREAS**, the City needs more time to consider properly and carefully the location and regulation of dance halls, public dance facilities, nightclubs, and similar businesses; and

**WHEREAS**, based on a history of the regulation of cabarets, nightclubs, dance halls and similar businesses within the community, and testimony and documents presented to other cities and counties by law enforcement officers and the public, the City council finds that such business operations often result in undesirable secondary effects, including criminal and other unlawful activities such as narcotics and liquor law

violations, breaches of the peace, assaults and interference with the quiet use and enjoyment of adjoining and neighboring properties; and

**WHEREAS**, the City council finds that the City's land use integrity and the State Growth Management Act planning process will suffer significant harm unless applications for licenses, permits and approvals for cabaret, dance hall, nightclub and similar businesses are halted until the planning process is completed; and

**WHEREAS**, the City council finds that protection of the health, safety and welfare supports establishment of a moratorium on applications for licenses, permits and approvals for such businesses; and

**WHEREAS**, RCW 35A.63.220 and 36.70A.390 authorize the City to adopt a moratorium on development permits and approvals for such businesses and thereafter to hold a public hearing on the moratorium within 60 days of the commencement of the moratorium; and

**WHEREAS**, the City Council of the City of Sunnyside finds that enactment of this Ordinance constitutes an emergency, due to inquiries regarding permitting and/or licensing and zoning requirements for dance hall, public dance, cabaret and nightclub businesses and the fact that the current city code and regulations do not adequately address the potential health, safety, environmental, zoning, infrastructure, law enforcement and community impacts associated with the type, number and siting of such businesses located and likely to be proposed for location within the City of Sunnyside; and

**WHEREAS**, this emergency is further supported by the unnecessary burden and infringement placed on businesses and other persons desiring to process applications for dance hall, public dance, cabaret, nightclub and similar businesses under a regulatory process that is ill-suited to review the health, safety, environmental, zoning, infrastructure, law enforcement, and community issues involved in such applications; and

**WHEREAS**, a moratorium on the acceptance, processing and issuance of permits, licenses and approvals for such businesses is necessary to enable the City Council to formulate a comprehensive permitting process which addresses impacts, mitigation requirements, zoning for potential siting, and other requirements or standards to protect and benefit the public interest; and

**WHEREAS**, the potential adverse effects on the public health, property, safety and welfare, as discussed above, justify the declaration of an emergency.

**NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYSIDE, WASHINGTON**, as follows:

**Section 1: Declaration of Moratorium.** A moratorium is imposed upon the filing with the City of any applications for licenses, permits and approvals for public dances, dance halls, cabaret and nightclub businesses, as those terms are defined and used in the City's municipal code, including but not limited to those uses described in Chapter 5.28 of the Sunnyside Municipal Code, and as those terms and uses are commonly understood.

**Section 2: Exemptions.** This moratorium specifically exempts any application for permit deemed complete as of the effective date of this moratorium and any such business lawfully existing as of the effective date of this moratorium.

**Section 3: Duration.** The moratorium imposed in this ordinance shall become effective immediately upon passage of this ordinance and shall continue in effect until and including October 19, 2009, unless repealed, extended or modified by the City council after subsequent public hearing and entry of appropriate findings of fact pursuant to RCW 35A.63.220 and 36.70A.390.

**Section 4: Direction to Develop Comprehensive Adult Entertainment Regulation Ordinance.** The City Council hereby directs the City Manager to develop a comprehensive dance hall, public dance, cabaret, nightclub business regulation ordinance which shall be presented to the City Council on the earliest possible date. The City Manager is encouraged to seek input from appropriate city staff, business representatives, other commissions and boards of the city, other governmental agencies and interested members of the public.

**Section 5: Subjects for Consideration.** Without limitation, the City Manager is encouraged to consider all subjects relevant to regulation of dance halls, public dances, cabaret, nightclub, and similar businesses, including but not limited to: appropriate business license requirements; regulation of conduct of such businesses; law enforcement effects and needs; safety of patrons, employees and the public; community standards of morality and decency; appropriate or necessary zoning or siting requirements; appropriate or necessary building requirements; issues of free speech and signs intended for advertising of such businesses; and any other matter deemed necessary or appropriate to preserve, promote and protect the general health, safety and welfare.

**Section 6: Public Hearing Required.** As required by RCW 35A.63.220 and RCW 36.70A.390, within sixty (60) days of the passage of this Ordinance, the City Council will hold a public hearing on this moratorium and consider administration's progress report on developing an adult entertainment regulation ordinance. The Public Hearing is therefore set to occur on Monday, June 22, 2009 at 6:30 p.m. at the City Council Chambers at the Sunnyside Law & Justice Center, 401 Homer Street, Sunnyside, Washington. City staff will provide notice of such public hearing as required by law.

**Section 7: Emergency Declared – Effective Date.** For the reasons set forth above and to promote the objectives stated herein, the City Council finds that a public emergency exists, necessitating that this Ordinance take effect immediately upon its passage by a majority plus one of the whole membership of the Council in order to protect the public health, safety, property and general welfare.

**Section 8: Severability – Construction.**

- (1) If a section, subsection, paragraph, sentence, clause or phrase of this Ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not effect the validity of the remaining portions of this Ordinance.
- (2) If the provisions of this Ordinance are found to be inconsistent with other provisions of the Sunnyside Municipal Code, this Ordinance is deemed to control.

PASSED this 11<sup>th</sup> day of May, 2009.

  
PABLO GARCIA, MAYOR

ATTEST:



DEBORAH A. ESTRADA, CITY CLERK

APPROVED AS TO FORM:



MARK A. KUNKLER, CITY ATTORNEY