

RESOLUTION 2009- 85

ORIGINAL

**A RESOLUTION OF THE CITY COUNCIL OF  
THE CITY OF SUNNYSIDE, WASHINGTON,  
ADOPTING FINDINGS OF FACT TO JUSTIFY THE CONTINUED  
IMPOSITION OF A 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**

**WHEREAS**, the City Council of the City of Sunnyside has previously adopted Ordinance 2009-11 declaring a moratorium 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; and

**WHEREAS**, said moratorium is to continue in effect until and including October 19, 2009, unless repealed, extended or modified by the City Council; and

**WHEREAS**, said ordinance further directed the City Manger to develop a comprehensive dance hall, public dance, cabaret, and nightclub business regulation ordinance to be presented to the City Council on the earliest possible date; and

**WHEREAS**, the City Manager and the City's legal counsel have prepared a proposed revision to the said regulations; and

**WHEREAS**, RCW 36.70A.390 requires that the City Council hold a public hearing on the moratorium within sixty (60) days after its adoption; and

**WHEREAS**, following said public hearing, the City Council must adopt findings of fact to justify the continued imposition of the moratorium; and

**WHEREAS**, the City Council held a public hearing on the moratorium on July 13, 2009, during which time it considered testimony from the public and City staff, now, therefore,

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

**Section 1.** As a result of the hearing held on July 13, 2009, and the information presented to the Council during such, the City Council hereby determines that the moratorium shall continue in effect as specified in Ordinance 2009-11, adopted by the City Council on May 11, 2009. The City Council adopts the findings of fact attached hereto as Exhibit A and incorporated by this reference as if set forth in full.

This resolution shall be effective upon passage, approval and signatures hereon as required by law.

Passed this 12th day of October, 2009.

  
PABLO GARCIA, MAYOR

ATTEST:

  
DEBORAH A. ESTRADA, CITY CLERK

APPROVED AS TO FORM:

  
MENKE, JACKSON, BEYER, EHLIS & HARPER, LLP  
ATTORNEYS AT LAW

EXHIBIT "A"

**CITY COUNCIL  
CITY OF SUNNYSIDE, WASHINGTON**

In the Matter of the Establishment )  
of the Moratorium on the Acceptance )  
of Applications for and Issuance of any ) FINDINGS OF FACT FOR  
License, Permit, or Approval currently ) CONTINUANCE OF THE  
required for Dance Halls, Public Dances, ) MORATORIUM  
Cabarets, Night Clubs or any Business )  
License for Uses as described in Chap- )  
ter 5.28 of the Sunnyside Municipal )  
Code or other applicable code chapter )

**WHEREAS**, on May 11, 2009, the City Council imposed a moratorium upon the filing with the City of any applications for licenses, permits and approvals for public dances, dance halls, cabaret and night club 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; and

**WHEREAS**, RCW 36.70A.390 requires that the City Council hold a public hearing on the moratorium within sixty (60) days after its adoption; and

**WHEREAS**, the City Council held a public hearing on the moratorium on July 13, 2009, during which time it considered testimony from the public and City staff, now, therefore;

**THE CITY COUNCIL OF THE CITY OF SUNNYSIDE, WASHINGTON, hereby makes and enters the following:**

## I. FINDINGS OF FACT

Pursuant to RCW 36.70A.390, the City Council hereby adopts the following findings of fact to support the continued imposition of the City's moratorium upon the filing with the City of any applications for licenses, permits and approvals for public dances, dance halls, cabaret and night club 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, as provided in Ordinance No. 2009-11.

**A. Secondary effects of subject uses.** The City Council is aware that uses of land subject to the said moratorium have secondary land use impacts that have necessitated the adoption of regulatory ordinances to ameliorate the deleterious effects of these types of uses and businesses. In the City of Sunnyside, the following non-exhaustive list of secondary land use impacts associated with the subject uses have occurred, or are reasonably likely to occur:

1. Incidence of crime.

a. Increase in crimes, including DUI's that originate at said locations;

b. Heightened requirement for police response and protection, thereby reducing the availability of police services to other areas of the City;

2. Conflicts with neighboring land uses.

a. Increased traffic;

b. Excessive noise;

c. Litter.

3. Perception of legitimacy to improper land uses and improper behavior, with commensurate loss of sensitivity to the adverse effect of such uses upon adjoining neighbors, businesses, and the public at large.

The City Council has heard public comment that supports the existence of some or all of these secondary impacts. The City Council finds that because these secondary land use impacts have been associated with the land uses subject to the moratorium there is sufficient reason for the Council to believe that these impacts may continue to affect the City of Sunnyside in the absence of said moratorium. Therefore, the City Council finds that the imposition and continuation of the moratorium for the purpose of studying these secondary land use impacts and the manner in which the uses and businesses subject hereto should be regulated is necessary.

**B. Existing City Ordinances.** The existing City Ordinances do not appear to adequately address the impacts described herein. The City Council finds that it is in the interest of the public health, safety and welfare that the City study these businesses and uses, and determine the appropriate manner of regulating said businesses and uses to mitigate such secondary impacts. The City Council finds that the staff, Planning Commission, and the Council will need sufficient time to adequately review and study this issue and therefore need the subject moratorium to continue in force in accordance with the terms of Ordinance No. 2009-11.

**C. Need to preserve the status quo.** The City Council finds that the subject moratorium should be continued so that the City has adequate time to study and adopt the appropriate regulations. The moratorium should continue to preserve the status quo so that any vested rights will not be affected.

DATED THIS 12<sup>th</sup> day of October, 2009.

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PABLO GARCIA, MAYOR

ATTEST:

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DEBORAH A. ESTRADA, CITY CLERK

APPROVED AS TO FORM:

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MENKE, JACKSON, BEYER, EHLIS & HARPER, LLP  
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