

CITY OF LYNNWOOD

ORDINANCE NO. 2252

City of Lynnwood
DEC 22 2000
SCANNED

AN ORDINANCE AMENDING THE LYNNWOOD MUNICIPAL CODE, CHAPTER 5.25, RELATING TO THE LICENSING OF PUBLIC DANCES.

WHEREAS, the City Council of the City of Lynnwood determines it appropriate and in the public interest to amend existing provisions of Chapter 5.25 of the Lynnwood Municipal Code (1) remove the \$200 security deposit for litter for fixed place of businesses, (2) modify the grounds concerning license application, denial or revocation, (3) make a number of other housekeeping changes (for example, change City Clerk to Finance Director; make the code sections gender neutral, (4) impose a 50% additional fee for applications submitted less than 30 days prior to opening), and (5) remove the references in Ch. 5.25 to teen dance, and establish a new Ch. 26 for Teen Dance, and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LYNNWOOD DO ORDAIN AS FOLLOWS:

Section 1. Amendment. Those portions of LMC 5.25.010 and Section 1, Ordinance No. 1987 are amended to read as follows:

5.25.010 DEFINITIONS

- B. ~~"Teen Dance" means any public dance which permits the entry of persons under the age of twenty-one (21) years.~~
- E. "Police Chief" means the City of Lynnwood Police Chief or his or her designee.
- G. "Fire Marshal" means the City of Lynnwood Fire Marshal or his or her designee.
- H. "Finance Director" means the City of Lynnwood Finance Director or his or her designee.

Section 2. Amendment. Those portions of LMC 5.25.020 and Section 2, Ordinance No. 1987 are amended to read as follows:

5.25.020 LICENSE REQUIRED - FEE - RENEWALS

- A. It is unlawful for any person to conduct a public dance within the City of Lynnwood without first having obtained and being the holder of a valid and subsisting license for such activity, to be known as a public dance license, ~~; provided, however, that any holder of a valid and current cabaret license shall be exempt from the license provisions of this chapter.~~ The annual fee for a public dance license is \$200.00, provided, that the ~~City Clerk~~ Finance Director may issue a permit to any applicant for one dance only for a fee of \$20.00 per dance; provided further that the ~~City Clerk~~ Finance Director shall not issue more than three (3) single dance permits within any thirty-day period to any one person, or to any one acting on their behalf or to any applicant desiring to hold a public dance at any place where more than three single dance permits have been issued within the last thirty days without the applicant first securing an annual dance permit. The term and renewal of any and all annual licenses shall be as provided in LMC 5.04.040.
- B. All applications for permits, whether annual, ~~or monthly, or single night,~~ shall indicate the anticipated dates of proposed dances and both the hour of commencement and closing of each of the proposed dances.

Section 3. Amendment. Those portions of LMC 5.25.030 and Section 3, Ordinance No. 1987 are amended to read as follows:

5.25.030 LICENSE - EXEMPTION AND WAIVER OF PAYMENT

- D. Those organizations which are not required to obtain a license under this chapter shall register their intent to conduct a public or teen dance with the ~~City Clerk~~ Finance Director within fourteen (14) days prior to each dance held, and shall include such information required for an application for a license under this chapter. Additionally, that organization shall provide proof satisfactory to the ~~Clerk~~ Finance Director of the organizations' exempt status.

Section 4. Amendment. Those portions of LMC 5.25.040 and Section 4, Ordinance No. 1987 are amended to read as follows:

5.25.040 APPLICATIONS

- A. Applications for any license pursuant to this chapter shall be submitted in writing to the ~~City Clerk~~ Finance Director upon such forms as the ~~Clerk~~ Finance Director may prescribe at least thirty (30) days prior to the first dance. If the application is submitted less than 30 days before the dance, the Finance Director may, subject to available resources, process the application, subject to a additional processing fee of 50% of the prescribed fee. In addition to other information requested, application forms shall contain the name and place of residence of the applicant, the address and description of the premises to be licensed and the time and date of the dance or dances to be held.
- B. All applications shall be referred to the Police Chief who shall conduct an investigation as to the truth of the statements contained therein and investigate all other matters pertaining to the criteria for license approval set forth in LMC 5.25.050. The ~~Chief of Police~~ Chief shall report to the ~~City Clerk~~ Finance Director the results of such investigation, as well as his or her other findings as to whether the criteria for obtaining a public dance license have been met.
- C. The Police Chief, either at time of initial licensing, or anytime thereafter, may impose such conditions as he or she finds necessary to adequately protect the public health, safety and general welfare, including the condition that the licensee employ off-duty police officers to enforce the laws of the State of Washington and City ordinances during any dance.
- D. In addition, the applicant shall be responsible for any special costs, plus fifteen percent (15%) administrative fee. For example, if two (2) police officers at, say, \$25 per hour are required for two hours, then the applicant would pay, in addition to the application fee, \$115 (\$25 x 2 hours x 2 officers + 15%)

Section 5. Amendment. Those portions of LMC 5.25.050 and Section 5, Ordinance No. 1987 are amended to read as follows:

5.25.050 DENIAL OR NON RENEWAL OF LICENSE

- A. The ~~City Clerk~~ Finance Director shall deny or not renew a license if one or more of the following conditions exists:
1. The applicant is not in compliance with any state, county or city law or ordinance applicable to the premises or operator, or has failed to pay any penalties, fines, or assessments levied pursuant to this chapter, provided, a dance license shall not be withheld if the licensee is in compliance with a court or administrative order concerning payment of penalties, fines, or assessments.
 2. The applicant or any of the applicant's officers, directors, partners, operators, employees or other person involved in the operation of the dance or dance hall have:
 - a. ~~Committed any act, which, if committed by a licensee, would be grounds for suspension or revocation of a license or permit; or~~

- ~~b. In the case of an applicant for a teen dance license, been convicted within the last five years of a felony involving a crime of violence (as defined in RCW 9A.010(2) as now exists or hereafter amended) upon a juvenile or any felony under RCW Chapters 9A.44, 9A.64, 9A.88 or 9A.50; or~~
3. Within the last two years the applicant has been refused a license or had a license revoked under the provisions of this chapter.
- B. Any applicant denied a license may reapply and be granted a license if the applicant can show that the basis for such denial no longer exists.
- C. When the ~~City Clerk~~ Finance Director refuses to grant a license, or grants a license with conditions, he or she shall notify the applicant in writing of the same and shall inform the applicant of his or her right to appeal to the Police Chief or his designee within ten (10) days of the date of the notice by filing a written notice of appeal which contains a statement of the reasons for the appeal with the ~~City Clerk~~ Finance Director. Upon timely receipt of a written notice of appeal, the ~~City Clerk~~ Finance Director shall schedule a hearing of the matter pursuant to LMC 5.25.100, such hearing to be held within fifteen (15) days of receipt of an applicant's written appeal.

Section 6. Amendment. Those portions of LMC 5.25.060 and Section 6, Ordinance No. 1987 are amended to read as follows:

5.25.060 SECURITY

- B. The ~~Chief of Police~~ Chief will review the security provisions of the establishment and may, at his discretion, require the augmentation of security personnel to include hiring off-duty police officers.

Section 7. Amendment. Those portions of LMC 5.25.070 and Section 7, Ordinance No. 1987 are amended to read as follows:

5.25.070 LITTER CONTROL - SECURITY FOR CLEANUP

- A. Prior to issuance of any public dance license, other than for an annual license for a fixed business premise, a cash security deposit in the amount of \$200.00 shall be submitted to the City Clerk Finance Director as security for the cleanup of all litter resulting from any public dance authorized by the license. In the event the licensee fails to clean up all litter on any public or private property which results from any public dance conducted by the licensee within twenty-four (24) hours of the end of the dance, the City may cause such litter to be cleaned up and pay the costs of the cleanup out of the security funds. Litter resulting from the public dance shall be limited to that occurring within a one block radius of the location of the dance unless clearly identified to the dance. In the event the cost of the cleanup exceeds the amount of funds on deposit, the licensee shall pay such excess costs.
- ~~B. In the event funds are expended out of a security deposit required by this Section, the licensee shall, within five (5) days of receipt of notice of such expenditure, submit the amount necessary to replenish the security fund to the amount of the full security deposit. No renewal license shall be issued unless the full amount of the security deposit for litter cleanup is on deposit with the City at the time of the application for renewal. If funds sufficient to replenish the fund are not received within five (5) days of receipt of written notice then the license shall be suspended until sufficient funds are received. Within the five (5) days of receipt of notice of deficiency, the licensee may inform the Clerk Finance Director in writing of circumstances justifying non-payment of additional funds which information shall be considered by the Clerk Finance Director and the licensee shall not be suspended if the non-payment is justified.~~
- C. If the funds for security for cleanup are fully expended within any one week, or if the funds for cleanup fall below \$100.00 twice in any quarter or five times in any year, then the Clerk shall require an additional cash deposit of the higher of \$300.00 or the greatest one week expenditure for cleanup during the prior year.

Section 8. Amendment. Those portions of LMC 5.25.090 and Section 9, Ordinance No. 1987 are amended to read as follows:

5.25.090 REVOCATION OR SUSPENSION OF LICENSE

- A. After giving notice to the licensee of the right to a hearing pursuant to the procedures set forth in LMC 5.25.100 and conducting a hearing before the ~~Chief of Police~~ Chief or his designee if a timely request is filed, the ~~City Clerk~~ Finance Director may suspend or revoke any license issued pursuant to this section where one or more of the following conditions exists:
1. The license was procured by fraud or false representation of material fact in the application or in any report or record required to be filed with the ~~Clerk~~ Finance Director;
 2. The building, structure, equipment or location of the business or dance for which the license was issued does not comply with the requirements or fails to meet the standards of the applicable health, zoning, building, fire and safety laws and ordinances of the State of Washington, Snohomish County, and the City of Lynnwood, or the requirements of this chapter;
 3. The applicant or any of the applicant's officers, directors, partners, operators, employees or other person involved in the operation of a teen dance has been convicted within the last five years of a felony involving a crime of violence (as defined in RCW 9A.010 upon a juvenile as now exists or hereafter amended) or any felony under RCW Chapters 9A.44, 9A.64, 9A.88 or 69.50; or
 4. The licensee or his or her employee, agent, partner, director, officer or manager has knowingly allowed or permitted:
 - a. A felony involving a crime of violence (as defined in RCW 9A.010 as now exists or hereafter amended) or any felony under RCW Chapters 9A.44, 9A.64, 9A.88 or 69.50 to occur in or upon the dance hall premises;
 - b. Any act of or solicitation for sexual intercourse, sodomy, oral copulation, or masturbation to be committed in or upon the dance hall premises; or
 - c. The possession or consumption of liquor by persons under the age of twenty-one (21) years; or
 - d. The giving or supplying of liquor to any person under the age of twenty-one (21) years; or
 - e. The use by any person in or upon the dance hall premises of marijuana, cocaine or any other controlled substance (as defined in RCW 69.50.101[d] as now exists or as hereafter amended) not prescribed by a licensed physician for use by the person possessing or using the substance; or
 - ~~f. Violation of any condition placed upon a license issued pursuant to this chapter; or of any other applicable law or ordinance, which the Chief of Police or his designee finds constitutes an unreasonable interference with surrounding land uses or is otherwise unreasonably detrimental to the public welfare.~~
 - g. Violation of any other applicable law or ordinance, which the Police Chief or his designee finds constitutes an unreasonable interference with surrounding land uses or is otherwise unreasonably detrimental to the public welfare.
 - h. The building, structure, equipment or location of the business for which the license was issued does not comply with the requirements or fails to meet the standards of the applicable health, zoning, building, fire and safety laws and ordinances of the State of Washington, Snohomish County, and the city of Lynnwood, or the requirements of this chapter.
 - i. The licensee or any owner, officer or agent thereof has committed any act which is a ground for denial of a license.

- B. If the ~~City Clerk Finance Director~~ finds that any of the conditions set forth in this chapter exists and that the existence of such condition constitutes a threat of immediate and serious injury or damage to person or property, and in the case of conditions which may be eliminated by the license, that notice of the conditions has been given to the licensee and at least 24 hours have expired without the elimination of such conditions, the ~~City Clerk Finance Director~~ may immediately suspend any license issued under this chapter without prior opportunity to be heard, in which event the licensee shall be entitled to appeal the decision to the ~~Chief of Police Chief or his designee~~ in accordance with LMC 5.25.100 of this chapter. The notice of immediate suspension of license given pursuant to this subsection shall include a statement of the conditions found to exist that constitutes a threat of immediate and serious injury or damage to persons or property, and shall also inform the applicant of his right to appeal within ten (10) days of the date of the notice by filing a written notice of appeal which contains a statement of the reasons for the appeal with the ~~City Clerk Finance Director~~. Upon timely receipt of a written notice of appeal, the ~~City Clerk Finance Director~~ will schedule a hearing of the matter before the ~~Chief of Police Chief or his designee~~ pursuant to LMC 5.25.100, such hearing to be held within fifteen (15) days of receipt of the written notice of appeal.

Section 9. Amendment. Those portions of LMC 5.25.100 and Section 10, Ordinance No. 1987 are amended to read as follows:

5.25.100 APPEAL FROM DENIAL, REVOCATION OR CONDITIONS

- A. When the ~~City Clerk Finance Director~~ refuses to grant a license, revokes or suspends a license previously issued, or grants a license with conditions, the ~~City Clerk Finance Director~~ shall notify the applicant in writing of the same and shall inform the applicant of his right to a hearing before the ~~Chief of Police Chief or his designee~~ within ten (10) days of the date of the notice by filing a written notice of appeal which contains a statement of the reasons for the appeal with the ~~City Clerk Finance Director~~.
- B. If the applicant timely files a notice of appeal, the applicant shall be afforded a hearing before the ~~Chief of Police Chief or his designee~~ at which time the applicant shall be afforded an opportunity to show that the conditions imposed are without merit or that the reasons for denial of the license do not justify the denial. After the hearing the ~~Chief of Police Chief or his designee~~ shall determine whether the applicant has shown reason to revise the conditions or to issue the license and shall make its final decision.

Section 10. Amendment. Those portions of LMC 5.25.110 and Section 11, Ordinance No. 1987 are amended to read as follows:

5.25.110 AGE RESTRICTIONS

- A. No person conducting a public dance or maintaining a public dance hall shall allow persons under the age of ~~fifteen (15)~~ eighteen (18) years to enter or remain in the dance hall without a parent or legal guardian present.
- ~~B. No person conducting a "teen dance" as defined in this chapter shall allow persons over the age of twenty (20) years to enter or remain in the dance hall as defined, except for parent or legal guardian.~~

Section 11. Amendment. Those portions of LMC 5.25.120 and Section 12, Ordinance No. 1987 are amended to read as follows:

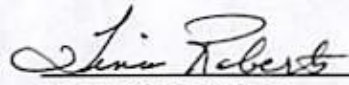
5.25.120 HOURS OF OPERATION

~~No public dance shall be conducted, operated or otherwise open to the public past the hour of 2:00 a.m. and shall not open be before the hour of 8:00 a.m.~~
~~No public dance to which any person under the age of twenty one (21) years may be admitted shall be conducted past the hour of 12:00 midnight on any school night, nor past the hour of 2:00 a.m. on any other day. For the purpose of this section, the term "school night" means any night preceding a day upon which public schools within the City of Lynnwood are scheduled to operate as of the time of commencement of the dance.~~

Section 12. Severability. If any section, subsection, sentence, clause, phrase, or word of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this Ordinance.

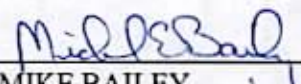
Section 13. Effective Date. This Ordinance shall take effect and be in full force five (5) days after its passage, approval and publication.


PASSED this 28th day of June, 1999, and signed in authentication of its passage this 30th day of June, 1999.


TINA ROBERTS, Mayor

ATTEST:

APPROVED AS TO FORM:


MIKE BAILEY
Finance Director


JOHN P. WATTS
City Attorney

PUBLISHED: