

**ORDINANCE NO. 2003-056**

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF OCT 9 2003

**AN ORDINANCE AMENDING CHAPTER 5.108 OF THE  
SACRAMENTO CITY CODE RELATING TO  
ENTERTAINMENT ESTABLISHMENTS**

**BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:**

**SECTION 1.**

Chapter 5.108 of the Sacramento City Code is hereby amended to read as follows:

**CHAPTER 5.108 ENTERTAINMENT ESTABLISHMENTS**

**Article I      General Provisions**

**5.108.010      Purpose and Intent**

The City Council of the City of Sacramento encourages the development of arts and culture in Sacramento, and recognizes that many entertainment venues provide a means for such development. The Council further recognizes that the variety of entertainment venues in the city provide a rich and diverse cultural experience for the residents of the city and visitors to the city. The Council also recognizes that many non-alcoholic entertainment venues provide a safe place for families and young adults to gather.

The Council hereby finds that the operation of entertainment establishments presents an environment with the demonstrated potential for excessive noise generation and disorderly conduct by patrons, particularly at closing times, with the attendant adverse health and safety impacts on the surrounding business and residential community.

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Therefore, it is the purpose of this chapter to regulate the operation of entertainment establishments for the public health, safety and welfare. All permittees will be held responsible for controlling patron conduct in and around the establishments, making adequate provisions for security and crowd control, protecting the city's youth from criminal activity and minimizing disturbances as a result of the operation of the entertainment.

It is also the intent of this chapter to provide options to the City Manager in regulating the variety of businesses and events that provide entertainment. The Council finds that the imposition of conditions tailored to the particular establishment will allow the business or event to flourish while meeting the city's public health and safety needs. This approach also would avoid placing unnecessary conditions on existing businesses or organizations with a history of compliance with the city laws and requirements.

5.108.020 Definitions

For purposes of this chapter:

The term "*ABC License*" means the license issued by the California Department of Alcoholic Beverage Control.

The term "*admission charge*" means any charge for the right or privilege to enter any place of entertainment including a minimum service charge, an event charge, a cover charge, a charge for the use of seats and tables, or any other similar charge. It also includes the purchase or presentation of a ticket or token directly or indirectly required as a condition for entrance. It does not include tips, gratuities, voluntary donations, or suggested donations for employees or for any person providing entertainment.

The term "*Chief of Police*" includes the Chief of Police of the City of Sacramento and his or her designee.

The term "*City Manager*" includes the City Manager of the City of Sacramento and his or her designee.

The terms "*dance and dancing*" means movement of the human body, accompanied by music or rhythm.

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The term "*disorderly conduct*" means any of the following: consumption of alcoholic beverages on public property, public drunkenness, obstructing the free passage of pedestrians over public sidewalks, the obstruction of free passage of vehicles within the public right of way, littering, fighting, loud speaking or shouting in violation of section 8.68.200 C of this code, the operation of automobile audio systems in a manner that violates section 8.68.200 M of this code, conduct that violates any provision of chapters 9.04 and 9.08 of this code, and such other conduct that constitutes a public nuisance or a violation of law.

The term "*entertainment*" or "*entertainment establishment*" means any single event, a series of events, or an ongoing activity or business, occurring alone or as part of another business, to which the public is invited or allowed to watch, listen, or participate, or that is conducted for the purposes of holding the attention of, gaining the attention of, or diverting or amusing guests or patrons, including, but not limited to:

- (a) Presentations by single or multiple performers, such as hypnotists, mimes, comedians; musical song or dance acts, plays, concerts, any type of contest; sporting events, exhibitions, carnival, rodeo or circus acts, demonstrations of talent; shows, reviews, and any other such activity which may be attended by members of the public.
- (b) Dancing to live or recorded music.
- (c) The presentation of recorded music played on equipment which is operated by an agent or contractor of the establishment, commonly known as a "DJ" or "disc jockey."

Entertainment does not include ambient music provided through the use of a radio, stereo, juke box, music recording machine or other similar device.

The term "*permittee*" means a person, persons, or business entity that has been issued a permit as provided in this chapter.

The term "*reasonable efforts*" means the provision of an adequate number of licensed security personnel, the adoption and posting of operating policies that are consistent with the requirements of this code and the permit and the

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adherence to those policies, the documented training of employees in the carrying out of the establishment operating policies, notifying the police of apparent criminal activity, and the taking of all additional measures, consistent with sound business judgment, necessary to accomplish the required result.

The term "*responsible person*" means the permittee, owner, proprietor, promoter, manager, assistant manager or other person exercising control over the operation of an entertainment establishment, whether or not that person is a named permittee.

The term "*special event*" means entertainment conducted on private property where all of the following circumstances exist:

- (a) The premises or location where the entertainment is to be conducted is not the subject of an existing entertainment permit issued pursuant to this chapter;
- (b) The person sponsoring or offering the entertainment is not in the business of regularly offering entertainment to the public;
- (c) Entertainment will only be offered for a limited period of time, not to exceed five (5) days;
- (d) The entertainment is not a recurring or regularly scheduled event or celebration.

The term "*special permit*" means any special permit issued by the city pursuant to chapter 17.212 of this code related to the operation of a public dance, entertainment establishment, or amusement premises.

The term "*theater*" means any commercial establishment where regular sporting events, concerts, motion picture screenings or theatrical performances are given, usually on a stage, and usually with ascending row seating or some arrangement of permanent seating.

5.108.030 Entertainment Permit Required; Compliance with Other Laws

- A. Unless exempt pursuant to section 5.108.040, it is unlawful for any person to provide or permit any entertainment that is open to the

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public without an entertainment permit issued pursuant to this chapter.

- B. Neither the obtaining of an entertainment permit nor compliance with the operating standards provided in this chapter shall obviate the need for, or excuse any noncompliance with, the zoning code, building code, fire code or any other or additional permit requirement or standard made applicable to the entertainment or entertainment establishment under any other provision of this code or state or federal law.

5.108.040 Exemption from the Permit Requirement

The following types of entertainment and events are exempt from the permit required by this chapter. This exemption does not relieve any entertainment establishment from complying with all other applicable laws, including, but not limited to, article II of this chapter and the laws related to noise levels and nuisances, particularly those contained in title 8 of this code.

- A. Entertainment sponsored by any agency of the City of Sacramento, the County of Sacramento, the various Boards of Education, or by any other political subdivision of the State of California;
- B. Entertainment sponsored by any nonprofit public benefit organization, such as Girl Scouts, Boy Scouts, Little League, Boys and Girls Club, whose primary objective is the sponsoring and control of youth activities and child welfare. If the event is a dance, the following requirements must be met:
  - 1. No person eighteen years of age or older may be admitted as a guest, unless such person is a bona fide student at, or member of, the sponsoring agency or organization;
  - 2. No alcoholic beverages may be served, consumed or permitted on the premises;
  - 3. Chaperones from the sponsoring agency are present on the premises at the rate of two adults, who are at least twenty-five years of age or older, for every one hundred guests; and
  - 4. The event must finish by 12:00 a.m. and the premises and the adjoining parking lots must be promptly vacated by all the

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guests.

- C. Entertainment lawfully conducted at any city park, building or recreational facility;
- D. Entertainment lawfully conducted entirely upon property owned or controlled by a governmental entity;
- E. Entertainment sponsored by a city authorized business improvement district when:
  - 1. The business improvement district is created pursuant to and is abiding by state law, Streets and Highways Code sections 36500 and 36600, et. seq., and in compliance with agreements between the business improvement district and the city; and
  - 2. The event is for the purpose of improving the area encompassed by the business improvement district; and
  - 3. The business improvement district is the responsible person for the event.
- F. Entertainment limited to the use of a radio, music recording machine, juke box, television, video games, video programs, or recorded music by an establishment that does not permit dancing;
- G. Entertainment provided for members and their guests at a private club having an established membership when admission is not open to the public. For purposes of this section, private club means corporations or associations operated solely for objects of national, social, fraternal, patriotic, political, or athletic nature, in which membership is by application and regular dues are charged, and the advantages of which club belong to members, and the operation of which is not primarily for monetary gain;
- H. Entertainment provided for invited guests at a private event such as a wedding reception, banquet, or celebration where there is no admission charge;
- I. Entertainment conducted in connection with a regularly established

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- theme park;
- J. Parades;
  - K. Street performers such as musicians, singers or mimes;
  - L. Entertainment conducted on a pedestrian mall under a permit issued pursuant to chapter 12.44 of this code;
  - M. Entertainment conducted or sponsored by any religious organization, bona fide club, organization, society or association that is exempt from taxation pursuant to Internal Revenue Code section 501(c)(3), when all proceeds, if any, arising from such entertainment are used exclusively for the benevolent purposes of such religious organization, club, society or association;
  - N. Performances by the students at educational institutions as defined by the Education Code where such performances are part of an educational or instructional curriculum or program;
  - O. Theaters;
  - P. Motion picture theaters not providing live entertainment;
  - Q. Dance lessons, theatrical and performing arts lessons and student recitals;
  - R. Book readings, book signings, poetry recitations, and any other similar entertainment consisting of the spoken word, including plays;
  - S. Fund-raisers for a political cause;
  - T. Entertainment consisting of ambient or incidental music provided for guests or patrons by musicians such as a piano player, harpist, strolling violinist, mariachi band, guitarist or band. If there is an admission charge required to observe or attend such entertainment, the music will not be considered ambient or incidental;
  - U. Any establishment, venue or assemblage of 49 persons or less, as described in the maximum occupancy load;

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- V. Entertainment conducted in any hotel or motel having in excess of one hundred (100) rentable rooms or suites;
- W. Entertainment lawfully conducted at any of the following regulated businesses:
1. "Adult-related establishments," regulated under chapter 5.04 of this code;
  2. "Amusement arcades," regulated under chapter 5.12 of this code. However, if entertainment, other than the operation of amusement machines, is conducted on the premises of any amusement arcade, such amusement arcade shall not, by virtue of this provision, be exempt from the permit requirement of this chapter;
  3. "Bingo," regulated under chapter 5.24 of this code;
  4. "Cardrooms," regulated under chapter 5.32 of this code. However, if entertainment, other than the playing of cards, is conducted on the premises of any cardroom, such cardroom shall not, by virtue of this provision, be exempt from the permit requirement of this chapter;
  5. "Billiard and Pool Parlors," regulated under chapter 5.20 of this code. However, if entertainment, other than the playing of billiards or pool, is conducted on the premises of any billiard or pool parlor, such billiard or pool parlor shall not, by virtue of this provision, be exempt from the permit requirement of this chapter;
  6. "Miniature Golf," regulated under chapter 5.84 of this code. However, if entertainment, other than the playing of miniature golf, is conducted on the premises of any miniature golf establishment, such miniature golf establishment shall not, by virtue of this provision, be exempt from the permit requirement of this chapter.
- X. The normal and customary fitness services provided by an athletic club or fitness center.

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## Article II Operation of Entertainment Establishments

### 5.108.050 Application of Article

This article is intended to implement minimum standards applicable to the operation of all entertainment establishments whether or not such establishments are subject to the permit requirement of article I of this chapter. Nothing in this article II shall limit the city's authority to impose and enforce permit conditions under section 5.108.190 requiring entertainment establishments to comply with operating standards that are more strict, comprehensive or onerous than the minimum standards imposed by this article II.

### 5.108.060 Hours of Operation; Responsible Person

- A. Except as otherwise provided herein, all entertainment establishments shall be closed and all patrons shall vacate the premises between 2:00 a.m. and 6:00 a.m., except that as part of a New Year celebration, entertainment establishments may remain open until 3:00 a.m., on January 1<sup>st</sup>. It is unlawful for any responsible person to fail to abide by the hours of closure.
- B. A responsible person must be present in the entertainment establishment during all hours that the entertainment establishment is open and offering entertainment.

### 5.108.070 Disturbing the Peace; Disorderly Conduct

Each responsible person shall make reasonable efforts to prevent the admittance of any person whose conduct is described in Penal Code section 415 (fighting, loud noise, offensive words in public places) or 647 (disorderly conduct) at the premises or on any parking lot or similar facility used by the establishment. Each responsible person shall make reasonable efforts to remove any persons exhibiting such conduct from the establishment.

### 5.108.080 Intoxicated Customers

Each responsible person shall make reasonable efforts to prevent the admittance of any obviously intoxicated person. For purposes of this section, a person is "obviously intoxicated" when he or she exhibits readily apparent

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outward manifestations of drug or alcohol intoxication, including but not limited to, inability to walk or stand in a normal manner, bloodshot or glassy eyes, flushed face, incoherent or slurred speech, alcoholic breath, belligerence or other loud or boisterous conduct, extreme agitation or nervousness or mental confusion.

5.108.090 Reasonable Passageway Required

It is unlawful for any responsible person to fail to provide a reasonable passageway of at least 48 inches in width through any part of a room used by patrons and entertainers for their ingress and egress.

5.108.100 Observation of Noise Abatement Laws Required

Each responsible person shall obey all laws applicable to noise abatement, including those contained in title 8 of this Code.

5.108.110 Disorderly Conduct Within 50 Feet Prohibited

Each responsible person shall make reasonable efforts to control the conduct of patrons so as to prevent or minimize disorderly or unlawful conduct within the establishment and within 50 feet of the establishment. The 50-foot distance shall be measured in a straight line from the property line of the establishment.

5.108.120 Orderly Dispersal Required

Each responsible person shall use reasonable efforts to cause the orderly dispersal of individuals from the vicinity of the establishment at closing time, and shall not allow them to congregate within 50 feet of the establishment in a disorderly fashion. The 50-distance shall be measured in a straight line from the property line of the establishment.

5.108.130 Alcoholic Beverage on Premises

A. It is unlawful for any person to bring an alcoholic beverage onto the premises unless such action is allowed by the entertainment establishment's ABC license.

B. It is unlawful for any responsible person to allow any person to bring

an alcoholic beverage onto the premises unless such action is allowed by the entertainment establishment's ABC license.

5.108.140 Chief of Police Authority Where There is Immediate Threat to Public Safety

- A. The Chief of Police may require a permittee or responsible person to close down operations and disperse all patrons for the remainder of its daily operation whenever conduct by disorderly patrons reaches a magnitude that presents an immediate threat to the public safety or well-being of the patrons and general public in the vicinity.
- B. It is unlawful for any person to fail to comply with any directive issued by the Chief of Police under authority of section 5.108.140 A.

**Article III Issuance, Renewal, Suspension, Modification and Revocation of Permits**

5.108.150 Application of Article

This article shall apply to the issuance, renewal, suspension, modification or revocation of any permit required by section 5.108.030 of this chapter.

5.108.160 Application for Permit; Posting Premises

- A. All applications for permits shall be filed with the City Manager on such forms as he or she may prescribe, and shall contain the following:
  - 1. The name and permanent address of the applicant and all other persons having a financial interest in the operation of the entertainment, business or premises where the entertainment is to be located.
  - 2. A description of the proposed entertainment, including the maximum number of persons who are expected to be present within the entertainment establishment at any one time.
  - 3. The proposed opening date and hours of operation of the entertainment establishment.
  - 4. For special or limited duration events, the date or dates, hours and location of the proposed entertainment.

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5. The proposed security arrangements for the control of patrons.
  6. The name or names of the person or persons having management or supervision authority over the proposed entertainment, or any business or premises wherein the entertainment is proposed to be located.
  7. Whether or not the applicant or any other responsible person(s) have been convicted of a misdemeanor or felony offense within the past five years, the nature of such offense(s), and the sentence(s) received therefor.
  8. Written consent for the proposed entertainment on the premises from the owner of the property on which the entertainment is to be conducted.
  9. Such other information as the City Manager shall deem necessary for the proper processing and review of the application.
- B. The applicant and all responsible persons shall submit to fingerprinting by the Chief of Police.
- C. Upon receipt of a complete application, the City Manager shall provide to the applicant a Notice of Application for Entertainment Permit. The applicant shall post the Notice on the exterior of the premises for which the permit is sought within 24 hours after receiving the Notice and for no less than 14 consecutive days, or in the case of an application for an entertainment permit for a special event for a period no less than 48 hours, in a location that allows interested members of the public to read the Notice. In addition, each applicant, other than an applicant for an entertainment permit for a special event, shall mail a copy of the Notice to all owners of property within a radius of one hundred (100) feet of the premises for which the permit is sought within five (5) calendar days of receiving the Notice.
- D. Except as provided below, the City Manager shall either approve or deny the entertainment permit within forty five (45) working days of receipt of the complete application. The City Manager may extend the time for consideration of the application for up to an additional fifteen (15) working days with the written consent of the applicant. The failure of the City Manager to timely act shall constitute approval of the permit.

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- E. The City Manager shall either approve or deny the entertainment permit for a special event within three (3) working days of receipt of the complete application. The City Manager may extend the time for consideration of the application for up to an additional three (3) working days with the written consent of the applicant. The failure of the City Manager to timely act shall constitute approval of the permit.

5.108.170 Extended Operating Hours

- A. An applicant for a permit may request, and the City Manager may approve, extended operating hours that will be applicable to the permitted entertainment establishment. The extended operating hours approved by the City Manager, and any conditions relating thereto, shall be specifically stated in the permit.
- B. Any entertainment establishment, exempt from the permit requirement pursuant to section 5.108.040, may apply for a permit under the procedures provided in the chapter, for the sole purpose of obtaining extended operating hours. The extended operating hours approved by the City Manager, and any conditions relating thereto, shall be specifically stated in the permit.

5.108.180 Fees

Every application for a permit shall be accompanied by a nonrefundable application fee as established by resolution of the City Council. This application fee shall be in addition to the city's business operation tax and any other license or permit fee imposed by this code upon the applicant.

5.108.190 Investigation of Application and Issuance of Permit

- A. The City Manager shall conduct a thorough investigation of the application. The City Manager shall obtain recommendations and reports from the Chief of Police, and such other city departments as he or she deems necessary, concerning the application.
- B. The City Manager shall approve the issuance of the entertainment permit if he or she finds:
  - 1. That issuance of the permit and conduct of the entertainment at the proposed location, as conditioned, is consistent with federal, state and local laws, rules, regulations and any existing special permit(s); and

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2. That issuance of the permit at the proposed location, as conditioned, will not constitute an undue burden on the neighborhood because of its proximity to residences, inadequate parking or other neighborhood circumstances and will not interfere with the reasonable use and enjoyment of the neighborhood by its residents; and
  3. Neither the applicant or any responsible person or principal of the applicant has, within the past five years, been convicted of a felony or other crime of moral turpitude that is substantially related to the qualifications, functions or duties of a proprietor of premises upon which the entertainment activities are conducted; and
  4. Neither the applicant or any responsible person or principal of the applicant has a history of committing, permitting or failing to prevent significant violations of the city code, or any license or permit, in connection with an entertainment establishment for which he or she was a responsible person; and
  5. It does not appear, based upon the information before the City Manager, that the applicant has provided false or misleading material information in the application.
- C. Where the City Manager does not approve a permit, the City Manager shall inform the applicant of the reason(s) for the denial in writing.
- D. In issuing the permit, the City Manager may impose conditions relating to the operation of the entertainment establishment.
1. Conditions may relate to:
    - (a) The days, hours and location of operation;
    - (b) Restrictions designed to prevent minors from obtaining alcohol, such as separate entrances, exits, and restroom facilities on the premises;
    - (c) The number and age of persons allowed on premises;
    - (d) Whether licensed security guards are required, and if so, how many;
    - (e) Specific measures the permittee must undertake to control the

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conduct of patrons so as to prevent or minimize disorderly conduct within the establishment;

- (f) Specific measures the permittee must undertake to remove trash attributable to the establishment or its patrons in and around the establishment, the surrounding neighborhood and the public right of way;
  - (g) Specific measures the permittee must undertake to prevent the entertainment and its patrons from disturbing the peace and quiet of the surrounding neighborhood;
  - (h) Specific measures the permittee must undertake to prevent its patrons from engaging in disorderly conduct in the surrounding neighborhood;
  - (i) Whether the Chief of Police must receive advance notice of the date of a particular event if that event is not held as part of the regularly scheduled events of the business; and
  - (j) Other matters related to public health, safety and welfare.
2. Conditions shall be based on specific and articulable facts reasonably related to insuring the public health, safety and welfare, including, but not limited to, the protection of minors from alcohol and other criminal activity, the conservation of limited city public safety resources and the prevention of public nuisance activity that detracts from the peace and quiet of residential neighborhoods.
3. Conditions shall be listed on, or attached to, the permit.
4. The City Manager shall give the permittee an opportunity to review any proposed conditions and the City Manager will consider the input of the permittee prior to imposing those conditions.
5. Conditions may not be imposed that conflict with any local, state or federal law, or that conflict with the permittee's ABC License. Nothing in this subsection is intended to prevent the City Manager from imposing any condition related to the age of patrons inside an ABC establishment if the ABC license does not address that issue. The intent of this subsection is to allow the sale and service of food to

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minors in a bona fide public eating place (ABC license types 41, 47, and various club licensed premises) with reasonable conditions placed on the permit to prevent curfew violations and protect the minors from alcohol and other criminal activity.

6. If the applicant has been issued a special permit prior to the effective date of this ordinance, conditions placed upon that special permit shall be conditions of the entertainment permit issued under authority of this chapter. However, nothing in this subsection shall be construed to limit the authority of the City Manager to place additional conditions upon the permit that are not in conflict with the existing special permit conditions or to require compliance with the existing special permit conditions prior to issuance of the entertainment permit.
7. The City Manager may require the applicant to demonstrate compliance with applicable existing special permit prior to issuance of the permit or may issue the permit conditioned upon the applicant obtaining any other additional necessary special permit or other city, county or state approval.
8. No condition may be imposed pursuant to this chapter that suppresses or regulates expression in any manner contrary to law.
9. Imposition of any particular condition is appealable through the procedures set forth in section 5.108.260.

5.108.200 Display of Permits

The permit issued pursuant to this chapter shall at all times be displayed in a conspicuous place in the entertainment establishment for which it was issued and shall be immediately produced upon the request of any police or code enforcement officer.

5.108.210 Duration of Permit

- A. Except as provided below, a permit issued pursuant to this chapter shall be valid for two years from the date it was issued subject to any conditions or restrictions existing at the time it was issued.
- B. A permit issued pursuant to this chapter for a special event shall be valid for

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the term stated in the permit, but in no event for a period greater than one year from the date it was issued.

5.108.220 Permits Not Transferable

Permits issued pursuant to this chapter are not transferable to another person or location.

5.108.230 Effect of Denial

In the event an application for a permit is denied by the City Manager, no application for a permit to conduct the proposed activity at the same location shall be considered by the City Manager for a period of one year from the date of denial.

5.108.240 Suspension, Modification or Revocation of Permit

A. After notice and an opportunity for a hearing to the permittee as provided in this section, the City Manager may suspend, modify or revoke any permit issued pursuant to the provisions of this chapter for any of the following reasons:

1. The entertainment has been conducted in a manner contrary to the findings for the issuance of a permit set forth in section 5.108.190 B; or
2. The permittee has failed to comply with one or more conditions of the permit; or
3. The entertainment has created sound levels that violate the City Code; or
4. The permittee or his/her employees, agents, or representatives have violated or are violating federal, state or local laws, rules or regulations in connection with the entertainment; or
5. The entertainment has been conducted in an illegal or disorderly manner or has been conducted in such a manner as to constitute an unreasonable burden on the reasonable use and enjoyment of neighboring properties; or

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6. The applicant has knowingly made a false statement of material fact or has knowingly omitted a material fact in the application; or
  7. The entertainment has created or is creating a nuisance; or
  8. The permittee or any other responsible person has violated any provision of this chapter; or
  9. The modification has been requested by the permittee and the City Manager finds the modification is consistent with the provisions of this code and will not constitute a nuisance or an unreasonable burden upon city resources or the surrounding neighborhood.
- B. In the event the City Manager proposes to suspend, modify or revoke a permit, written notice of the proposed suspension, modification or revocation shall be personally delivered or sent by certified mail to the permittee at least fourteen (14) calendar days prior to the date of the proposed suspension, modification or revocation. The notice shall contain:
1. A brief statement on the specific grounds for such suspension, modification or revocation;
  2. A statement that the permittee may appeal the proposed suspension, modification or revocation by submitting an appeal, in writing to the City Manager, within ten (10) calendar days of the date of service of the notice;
  3. A statement that the failure to appeal the notice of suspension, modification or revocation will constitute a waiver of all right to an appeal hearing, and the suspension, modification or revocation will be final.
- C. The appeal hearing shall be conducted by the City Manager. The permittee may have the assistance of counsel and shall have the right to present evidence.
1. Failure to properly file a written appeal of the notice of suspension, modification or revocation within ten (10) calendar days of the date of service of the notice will constitute a waiver of all right to an appeal

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hearing, and the suspension, modification or revocation will be final. Failure to properly and timely appeal the notice of suspension, modification or revocation shall also constitute a failure to exhaust administrative remedies and a bar to any judicial action pertaining to the City Manager's decision.

2. If the permittee or counsel for the permittee files a proper appeal and then fails to appear at the hearing, the appeal is abandoned, and the decision of the City Manager is final and may not be further appealed. Failure to appear at the hearing constitutes a waiver of all right to an appeal hearing and shall also constitute a failure to exhaust administrative remedies and a bar to any judicial action pertaining to the City Manager's decision.
- D. Written notice of the decision of the City Manager shall be given to the permittee within ten (10) working days following the hearing by personal delivery thereof or deposit of such notice in the U.S. Mail, postage prepaid.
- E. Except as provided in subsections 5.108.240 B and 5.108.240 C, the decision of the City Manager shall be subject to appeal to the City Council as provided in section 5.108.260.

5.108.250 Renewal of Permits

- A. A permittee may apply for permit renewal by submitting to the City Manager before the expiration of any permit, a renewal application and a non-refundable renewal fee in an amount set by resolution of the City Council.
- B. If a timely and complete application for renewal is filed, the permit's expiration shall be stayed until a decision on the renewal application is issued.
- C. The City Manager shall either approve or deny the renewal of a permit within forty five (45) working days of receipt of the complete application. The City Manager may extend the time for consideration of the application for up to an additional fifteen (15) working days with the written consent of the applicant. The failure of the City Manager to timely act shall constitute approval of the renewal of the permit.
- D. The City Manager shall approve the renewal of a permit if he or she finds

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that no circumstances existed during the term of the permit, existed at the time of submission of an application for renewal, or existed at any time during the review of the application for renewal that is inconsistent with any finding required for approval of a new permit for the applicant or location as specified in section 5.108.190 or would justify the suspension, modification or revocation of the permit as specified in section 5.108.240. Notwithstanding the above, the City Manager may add, delete or modify the permit conditions as a condition of permit renewal, using the criteria set forth in section 5.108.190 D.

5.108.260 Denial, Suspension, Modification, Revocation and Conditions--Appeals

Except as provided in section 5.108.240, any applicant or permittee aggrieved by the decision of the City Manager, in denying, suspending, modifying or revoking a permit or imposing conditions on the permit, may appeal the decision to the City Council in accordance with chapter 1.24 of this code. The appeal shall be made by filing a written notice thereof with the City Clerk not later than ten (10) calendar days after notice of the decision of the City Manager, is personally served upon or mailed to the permittee. The Council shall hold a hearing on the appeal and its decision thereon shall be final. Instead of hearing the appeal, the Council may refer the matter to a hearing examiner pursuant to chapter 1.24 of this code, in which case the hearing examiner's decision shall be final. In the case of a suspension, modification or revocation, the permittee may continue to conduct entertainment during the pendency of any appeal.

5.108.270 Permits Issued Prior to the Effective Date of this Section

- A. Unless an earlier expiration date is specified in the terms of the permit itself, a dance permit issued on or before the effective date of this section shall be valid for one year from the effective date of this section and shall terminate thereafter. Notwithstanding any other provision of this chapter, all dance permits issued on or before the effective date of this section shall be subject to suspension, modification or revocation pursuant to section 5.108.240.
- B. A permittee with a permit subject to the provisions of subsection A may apply for permit renewal as provided in section 5.108.250.
- C. If a permit renewal is issued as provided in subsection B, the City Manager may impose conditions on the permit in accordance with this chapter.

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FOR CITY CLERK USE ONLY

ORDINANCE NO. 2003-056

DATE ADOPTED: OCT 9 2003

**Article IV Penalties for Violation**

5.108.280 Violation--Penalty

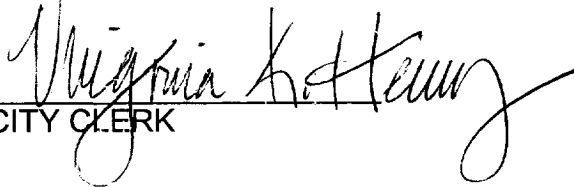
- A. Any person violating any provision of this chapter, other than sections 5.108.070, 5.108.080, 5.108.110 and 5.108.120, is guilty of a misdemeanor.
- B. Any person violating sections 5.108.070, 5.108.080, 5.108.110 or 5.108.120 of this chapter shall be subject to a civil action and/or civil penalties pursuant to section 1.28.010 of this code.

5.108.290 Cumulative Remedies, Procedures and Penalties

Unless otherwise expressly provided, the remedies, procedures and penalties provided by this chapter are cumulative to each other and to any others available under state law or other city ordinances.

  
VICE-MAYOR

ATTEST:

  
CITY CLERK

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