

FILED

JUN 18 2018

GENERAL ORDINANCE NO. 4, 2018

CITY CLERK

AN ORDINANCE AMENDING CERTAIN PROVISIONS OF *TERRE HAUTE CITY CODE* CHAPTER 4, Article 22, Dance Permits.

IT IS HEREBY ORDAINED by the Common Council of the City of Terre Haute as follows:

SECTION 1. *Terre Haute City Code* Chapter 4, Article 22 is hereby amended with the deletion of the stricken text and addition of the underlined text as follows:

...

ARTICLE 22. ~~DANCE PERMITS~~ SPECIAL EVENT PERMIT.

Sec. 4-310 Permit Required.

It shall be unlawful for any person to hold any ~~dance special event~~, or to own, operate or allow the operation of any building or premises in the City where dancing is indulged in or permitted, and where music is performed live or reproduced by any type of electronic or mechanical device, without first obtaining a ~~dance special event~~ permit from the Board of Public Works and Safety. Whenever a ~~dance special event~~ requiring a permit is held on premises not owned or leased for a term of one (1) year or more by the person holding the ~~dance special event~~, the owner and lessee of the property along with the person holding the ~~dance special event~~ must jointly obtain a ~~dance special event~~ permit.

Sec. 4-311 Activities Exempted from this Article.

The permit required by this Article shall not be required under the following circumstances:

a. For a ~~dance special event~~ held by a fraternal, educational, governmental, charitable or religious organization or a bona fide club, as long as the ~~dance special event~~ is not open to the general public and admission to the ~~dance special event~~ is limited to members and invited guests, and the ~~dance special event~~ is controlled exclusively by the fraternal, educational, governmental, charitable, or religious organization or bona fide club, and provided that, after payment of expenses, all of the proceeds collected go directly to charitable or welfare purposes or directly into the treasury of such institutions, organizations, or schools. For the purpose of this exemption, the terms fraternal organization and bona fide club shall mean an association with more than fifty (50) members. The association shall own, maintain, or operate club quarters within the City and be authorized and incorporated to operate as a nonprofit club under the laws of the state and have been continuously incorporated and operating for a period of not less than one (1) year. The association shall have had during such period of one-year a membership with regular meetings conducted at least once each month, and the membership shall be and shall have been actively engaged in carrying out the objects of the association. Membership dues shall

be payable monthly, quarterly, or annually, and shall be recorded by the secretary of the association. It is the intent of this definition that any exemption from this Article shall apply only to an association that has not been primarily formed or activated to evade the provisions of this Article;

b. For a ~~dance~~ special event which is not advertised to the general public in any manner, and not open to the general public; and for which there is no admission fee or cover charge;

c. For a person who holds a one-year or two-year permit for the sale of alcoholic beverages and who holds a ~~dance~~ special event on the permitted premises and where entry is limited to persons who are twenty-one (21) years of age or older;

d. For ~~dance~~ a special event which is ~~held~~ performed as an exhibition or theatrical production, or part thereof, for the entertainment or benefit of an audience which is not expected or encouraged to participate in the ~~dance~~ special event; or

e. For any school or class, ~~the purpose of which is to teach dancing~~ holding a special event for only educational purposes.

Sec. 4-312 Application for Permit.

All applications for a permit required by this Article shall be in writing on a form supplied by the Board of Public Works & Safety, and shall include the following and be signed by the applicant(s):

a. The name, mailing address, telephone number and copy of driver's license or other state issued photo identification of the applicant(s), and the names and addresses of all partners (if a partnership), all officers if a corporation, and all other persons who will be associated in the operation of the business, including, but not limited to, the name, date of birth, mailing address, and telephone number of the person or persons who will be present for the duration of the ~~dance~~ special event and who will be responsible for managing the ~~dance~~ special event;

b. The applicant's retail merchant certificate number, federal tax identification number, and alcoholic beverage permit number, if the premises is licensed for the sale of alcoholic beverages;

- c. The date and hours when, and address where, the ~~dance~~ special event will be held;
- d. Whether the ~~dance~~ special event will be open to the public, and whether there will be an admission charge, or any age or other restrictions on who may be admitted;
- e. Whether the premises on which the ~~dance~~ special event will be held is owned or leased for a term of one (1) year or more by the applicant;
- f. Whether the applicant, including partners in a partnership and officers of a corporation, and any person responsible for managing the ~~dance~~ special event, has ever been convicted of a felony or misdemeanor;
- g. A detailed security plan that shall include, but is not limited to, the projected number of attendees, the number of dedicated security officers, and emergency/evacuation procedures; and
- h. Any other information required by the *City Code* or deemed appropriate by the Board of Public Works & Safety.

Sec. 4-313 Liability Insurance.

a. The applicant shall procure, and maintain throughout the term of the permit, a policy of general premises liability insurance that names the City of Terre Haute as an “additional insured” party, and that would protect the permittee and the City from any claims that may arise out of or result from the operation of the permitted ~~dance~~ special event. The applicant shall file a certificate of insurance with the Board of Public Works & Safety before a permit can be issued.

~~b. The limits of liability upon any insurance required by this Section shall in no instance be less than Seven Hundred Thousand Dollars (\$700,000.00) per occurrence for injury or death of any one person and not less than Five Million Dollars (\$5,000,000.00) in any one incident, and not less than Seven Hundred Thousand Dollars (\$700,000.00) for all damages arising out of injury to or destruction of property for any event in which the projected number of attendees is in excess of two hundred fifty (250) people.~~

~~eb. The limits of liability upon any insurance required by this Section may be Seven Hundred Thousand Dollars (\$700,000.00) per occurrence for injury or death of any one person and not less than One Million Dollars (\$1,000,000.00) in any one incident for any special event in which the projected number of attendees is two hundred fifty (250) or less. The Board of Public Works and Safety may request a hearing to permit lower liability insurance requirements upon a finding that the total number of projected attendees is in question.~~

Sec. 4-314 Denial; Grounds.

a. The Board of Public Works & Safety or its designee shall not issue a ~~dance~~ special event permit to any person who has not reached the age of eighteen (18) years for special events without alcohol present or twenty-one (21) years for special events that will or may have alcohol present, or who has been designated a sex or violent offender, as defined by I.C. 11-8-8-5.

b. The Board of Public Works & Safety or its designee shall not issue a ~~dance~~ special event permit to any person who does not provide the Board with the name, date of birth, mailing address, and telephone number of a person who has reached the age of eighteen (18) years for special events without alcohol present or twenty-one (21) years for special events that will or may have alcohol present, who will be present for the duration of the ~~dance~~ special event and who will be responsible for managing the ~~dance~~ special event;

c. In addition to any other reasons stated in this Article, the Board of Public Works & Safety or its designee may refuse to issue a permit required by this Article for any of the following reasons:

(1) The application was not made at least ten (10) business days prior to the time of commencement of the ~~dance~~ special event;

(2) The applicant or a person named on the application has been convicted of a misdemeanor or found in violation of any law relating to alcoholic beverages, narcotics, or disorderly or immoral conduct;

(3) The applicant or a person named on the application permitted violations of law to occur at a prior ~~dance~~ special event held or managed by him or her, without stopping the violations or reporting them to the police;

(4) Persons under the age of twenty-one (21) years will be admitted to the ~~dance~~ special event, and the ~~dance~~ special event is to be held on premises licensed for the sale of alcoholic beverages or within five hundred feet (500'), measured in any direction, of a premises licensed for the sale of alcoholic beverages;

(5) The applicant has failed to provide all necessary and/or adequate information required by this Article or has falsely provided such information or;

(6) The applicant has failed to provide a sufficient security plan.

d. If a special event permit is denied for any reason other than by an official determination of the Board of Public Works & Safety, the applicant may request an appeal to the

Board of Public Works & Safety. Said appeal must be made in writing and set forth the reason for denial and any grounds for relief. Upon receipt of an adequate appeal, the Board of Public Works & Safety shall hold a hearing within thirty (30) days to confirm or reverse the denial. The determination of the Board of Public Works & Safety at a hearing on appeal shall be final.

Sec. 4-315 Transfer of Permit.

A permit issued under this Article shall not be transferable unless authorized in writing by the Board of Public Works & Safety.

Sec. 4-316 Zoning Required.

It shall be unlawful for any person to hold any dance special event, or to own, operate or allow the operation of any building or premises in the City where dancing is indulged in or permitted at any place, location, or building which is not in compliance with Terre Haute building and zoning regulations regardless of any permission to use such premises.

Sec. 4-317 Scope of Permit; Hours of Operation.

a. Each permit issued pursuant to this Article shall allow the permittee to hold one (1) dance special event at one (1) location for a continuous period, and a separate permit shall be required for each dance special event.

b. In lieu of obtaining separate dance special event permits pursuant to this article, a permit with a term of one (1) year may be sought in an application if sufficient evidence is provided by the applicant that the primary function of his or her commercial enterprise is to hold dance special events which are applicable to this article. Annual dance special event permits may be issued for specific dance special events throughout the year if the appropriate dates and times are supplied at the time the application is submitted and said dance special events are limited to one (1) location. Separate dance special event permits for an applicant that has obtained an annual permit are only required if the applicant wishes to hold a dance special event on a date or time that was not originally provided in his or her application. All provisions of this article are applicable to an annual dance special event permit. An annual special event permit may be renewed, without additional fee as set forth in Sec. 4-319, if the renewal of said annual permit includes substantially similar information to the original application.

c. Under no circumstances may any part of a permitted dance special event be held between the hours of 2:00 a.m. and 6:00 a.m.

d. Under no circumstance may any part of a permitted dance special event be held between the hours of midnight and 6:00 a.m. if entry is not limited to persons eighteen (18) years of age or older.

Sec. 4-318 Suspension or Revocation of Permit.

a. The City may immediately suspend or revoke an issued permit if any of the following conditions are determined through probable cause by a member of the Terre Haute Police Department or as determined by the Board of Public Works & Safety or its designee found:

- (1) The permit holder made any materially false statement of fact on his or her application;
- (2) The permit holder failed to supply and maintain the insurance required by Sec. 4-313;
- (3) The permit holder acted fraudulently or with deceit in his relationship with other persons, partnerships or corporations;
- (4) The permit holder violates the regulations pertaining to hours of operation;
- (5) The permit holder has failed to pay the permit fee specified in Sec. 4-319;
- (6) The permit holder fails to follow/properly implement his or her security plan consistent with the permit application requirements;
- (7) The location or premises where the permitted ~~dance~~ special event is to be held is not in compliance with the City of Terre Haute zoning regulations; or
- (8) Illegal activity, including but not limited to, fighting, under-age drinking, illegal possession of weapons or drugs, disorderly conduct, occurs during the permitted ~~dance~~ special event.
- (9) Violations of state, local or federal code are found to have been committed during the permitted ~~dance~~ special event.

b. In the event that a permit is suspended or revoked, the ~~dance~~ special event must terminate and all attendees will be required to exit the premises.

c. In the event a permit is suspended or revoked for a violation stated herein, no refund of permit fee shall be made to permit holder.

d. In the event a permit is suspended or revoked, all responsible parties may be considered to have violated Sec. 4-310.

Sec. 4-319 Permit Fee.

A ~~dance~~ special event permit fee in the amount of Fifty Dollars (\$50.00) shall be paid for each permit issued pursuant to this Article unless otherwise waived by any provision in this Article. Any registered notn-for-profit organization applying for a permit pursuant to this Article shall be exempt from paying a permit fee upon a showing of adequate proof of said status to the Board of Public Works and Safety or its designee.

...

SECTION 2. The illegality or invalidity, for any reason, of any of the sections of this ordinance, or parts thereof, shall invalidate only such section or sections as are so determined to be illegal or invalid, any such invalidity shall have no effect on the remaining sections of this ordinance.

SECTION 3. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 4. This ordinance shall be in full force and effect from and after the date of its passage by the Common Council of Terre Haute, Indiana and approval of the Mayor and upon publication as required by law.

Introduced by: Martha Crossen Martha Crossen, Councilperson

Todd Nation Todd Nation, Councilperson

Don Morris Don Morris, Councilperson

Passed in open Council this 5 day of July, 2018.

Curtis DeBaun IV Curtis DeBaun IV, President

ATTEST: Michelle L. Edwards Michelle L. Edwards, City Clerk

Presented by me to the Mayor this 5 day of July, 2018.

Michelle L. Edwards Michelle L. Edwards, City Clerk

Approved by me, the Mayor, this 9th day of July, 2018.

Duke A. Bennett Duke A. Bennett, Mayor

ATTEST: Michelle L. Edwards Michelle L. Edwards, City Clerk