

City Clerk File No. Ord. 07-122

Agenda No. 3.P 1st Reading

Agenda No. 4.P 2nd Reading & Final Passage



ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE

offered and moved adoption of the following ordinance:

CITY ORDINANCE 07-122

TITLE: ORDINANCE SUPPLEMENTING CHAPTER 157 (ENTERTAINMENT AND DANCE LICENSES) OF THE JERSEY CITY CODE

THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY HEREBY ORDAINS:

A. The following supplement to Chapter 157 (Entertainment and Dance Licenses) of the Jersey City Code is adopted:

§ 157-1. Purpose and official comments.

1. A. Purpose; official comments.

(1) The City of Jersey City has repeatedly experienced serious civil disturbances and other occurrences detrimental to the public's safety, health and welfare associated with entertainment and dance venues (these problems include but are not limited to riots, disorderly groups, public consumption of alcohol, and public urination). Consequently, this chapter is enacted to license and regulate these activities except those directly sponsored and self-regulated by the city itself.

(2) Social clubs are expressly regulated by this chapter because recent experience has shown that attempts have been made to circumvent the general regulatory process. (For example, for-profit nightclubs have reorganized as private membership clubs to circumvent the Alcoholic Beverage Law.)*

* Editor's Note: See N.J.S.A. 33:1-1 et seq.

(3) This chapter also prohibits obscene entertainment and obscene dancing and contains a definition of obscenity and pornography that reflects contemporary community standards as enforceable by relevant judicial decisions. It also explicitly incorporates by reference the prohibitions on pornography and obscenity found in Chapter 251 of the Municipal Code. In enacting this prohibition, the City Council relied on extensive evidence of long-standing community's standards. Testimony was taken from ordinary citizens as well as members of the clergy, teachers, business people and professionals. The Council issued legislative findings that the people of Jersey City are offended by obscenity and pornography:

(a) Jersey City seeks to maintain an atmosphere as conducive as possible to families in a densely populated urban setting.

(b) Obscenity and pornography have had no place in the public life of Jersey City. Historically, no so-called adult bookstores or adult theaters have operated here. In addition, no erotic dancing venues have ever been allowed to operate here in the city, notwithstanding their presence in adjacent communities. Therefore, these legislative findings support the existence of community standards that allow for the constitutional circumscription of such activity, and the city will continue to enforce these social norms through legal sanctions.

(4) The Director of the Division of Commerce is given primary jurisdiction over this chapter. However, given the public safety concerns, the Director of Police also shares in its administration: § 157-7A authorizes the Director of Police, upon a notice and hearing, to suspend licenses on an emergent basis.

B. This chapter is to be liberally construed in order to effectuate its purpose.

§ 157-2. Definitions.

1. The following terms shall have the meanings indicated when used in this chapter:

DANCE -- Any dance to which admission can be had either with or without payment of a fee or any other dance in a place which constitutes a public accommodation, including, for instance, social clubs.

DIRECTOR -- The Director of Commerce in the Department of Housing, Economic Development and Commerce.

ENTERTAINMENT -- Any live act, including vocalists, actors, dancers, floor shows, instrumentalists and D.J.'s, and also the playing of recorded music either by a jukebox or by a similar instrumentality for the purposes of group entertainment.

ENTERTAINMENT LICENSE -- A license pursuant to this chapter regulating entertainment or dance.

OBSCENITY AND PORNOGRAPHY -- Obscenity and pornography exist when under contemporary standards in the community the entertainment taken as a whole, appeals to prurient interests; and the entertainment describes in a patently offensive way sexual conduct; and when the entertainment taken as a whole, lacks serious literary, artistic, political or scientific value. [NOTE: Miller v. California, 413 U.S. 15, 93 S. Ct. 2607, 37 L. Ed. 2d 419 (1973), rehearing denied, 414 U.S. 881, 94 S. Ct. 26, 38 L. Ed. 2d 128 (1973).] This definition incorporates by reference definitions contained in Chapter 251 of the Municipal Code.

OUTDOOR ENTERTAINMENT -- **Any entertainment taking place beyond the outside perimeter walls of the licensed premises or any entertainment which is intended to be audible or which is actually audible beyond such perimeter walls.**

PERSON -- Any natural person(s), or a partnership, corporation or legal entity.

VENUE -- Any place, including but not limited to a restaurant, nightclub, supper club, private club, lounge, grill or open space used for entertainment or dancing.

§ 157-3. Classes of licenses; license required.

1. A. A license as described in this chapter is required for any live entertainment or dance venue in the City of Jersey City except that no such license will be required for events taking place at the Mary McLeod Bethune Life Center at 134-150 Martin Luther King Drive or any other Community Center. Community Center means a City owned building used for recreational, social, educational, and cultural activities, open to the public or a designated part to the public, and used by the City or leased by the City to either a nonprofit group or another public entity. An entertainment license is granted to a specific person to offer entertainment or dancing in a specified place. There shall be three classes of entertainment and dance licenses:

(1) Class A annual license for an entertainment or dance venue with a capacity of one hundred (100) people or fewer;

(2) Class B annual license for an entertainment or dance venue with a capacity greater than one hundred (100) people.

(3) Special event license for an entertainment or dance venue of any capacity that offers entertainment or dancing for no more than twelve (12) days in a period of one year.

§ 157-4. Fees; inactive license; surrender; expiration; hours of operations.

1. A. Except as provided in § 157-3, no person shall keep, maintain, or operate any entertainment or dance venue without obtaining a license from the Director. A license shall be issued only if both the venue and the applicant comply with relevant standards. The fee schedule shall be as follows:

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Class A	Class B	Special Event License
\$300	\$600	\$25

B. If a licensee fails to conduct a dance or entertainment venue in a period of three months, the Director may revoke the license after a hearing has been held on ten (10) days' notice.

C. The hours of operation for a licensee under this chapter shall be as follows:

(1) Permitted hours:

Sunday-Thursday	Friday/Saturday	New Year's Eve
12:00 p.m.-2:00 a.m.	12:00-3:00 a.m.	12:00 p.m.-4:00 a.m.

(2) No person whatsoever, except the licensee and the licensee's employees and agents, may be on the licensed premises after closing time until 12:00 p.m. of that day, Monday through Sunday.

(3) A wind-down process must begin thirty (30) minutes prior to closing, and dance music must be terminated fifteen (15) minutes prior to closing to assure that patrons are out by the actual closing time.

(4) Notwithstanding Section 157-4(c), in venues where Outdoor Entertainment is permitted, it shall cease promptly at 11:00 p.m. on Sunday through Thursday and 12:00 midnight on Friday and Saturday.

§ 157-5. Applications; qualifications; procedure for review.

1. A. Applicants shall be of good moral character and shall file an application under oath with Director on forms approved by the Director. All applications shall be reviewed by the Division of Commerce and the Department of Police. The premises shall be inspected by the Fire Department, the Division of Health and the Division of Buildings for compliance with relevant laws and regulations.

B. The application shall be made under oath and shall contain the class of license sought, names, residences and citizenship status of all persons financially interested in the business, and the nature and extent of this interest; and, if a corporation, the names, residences and citizenship of the officers, directors and stockholders, and shall disclose whether the applicant has been convicted of any criminal or quasi-criminal offense, and if so, the date and place of such conviction and the nature of the offense.

C. The application shall also include a sworn statement signed by the applicants agreeing to comply with the relevant laws, rules and regulations of the United States, the State of New Jersey and the City of Jersey City.

D. The application shall have attached a copy of the plans and specifications of the premises sought to be licensed.

E. All relevant land use approvals, including approved site plans, together with a valid certificate of occupancy, are conditions precedent for the approval of any application.

§ 157-6. Publication of application notice.

1. A. The Director shall publish once each week for a period of two weeks in a newspaper of general circulation notice of any new application or application for renewal or transfer of a license. Such notice shall be at the applicant's expense and shall be in a form approved by the Director.

B. Any objections to the issuance of the proposed license or transfer may be filed with the Director within 20 days from the last date of publication of this notice, and all objections must include the name and address of the person who files the objection and the grounds for the objection.

C. If one or more objections are filed, the Director shall hold a hearing no later than 30 days after the last date of publication before approving the license or transfer. All objectors shall receive notice of the time, date and place of the hearing. The non-receipt of such notice shall not void the Director's action.

§ 157-7. License renewal or transfer; change of ownership.

1. A. No license shall be transferred or renewed without the approval of the Director and payment of the appropriate fee. Applications for annual renewal or transfer shall comply with all of the relevant provisions of this chapter, including the filing of all forms in § 157-4 and any additional forms required by the Director. Any unauthorized transfer shall result in the automatic suspension of the license.

B. If the owner of a sole proprietorship, the partners of a partnership or the officers, directors or stockholders of a corporation are changed, their successors shall file an affidavit stating their names, residences, citizenship and the nature and extent of their financial interest in the business. Failure to inform the Director of changes of ownership shall be grounds for suspension or revocation of the license. The Director shall review the validity of an existing license upon change in ownership.

C. The Director may deny an application for a renewal of a license where the licensed premises has been operating in a manner detrimental to the health, safety, and welfare of the people of the City of Jersey City.

§ 157-8. Operating requirements.

1. A. The licensed premises shall be fully accessible to authorized members of the Department of Police and the various departments of the city having regulatory jurisdiction over the premises.

B. No licensee may offer obscene or pornographic entertainment (as defined in this chapter and in Chapter 251 of the Jersey City Municipal Code).

C. All licenses under this chapter shall be posted securely in a conspicuous place at the main entrance to the licensed premises.

D. Any licensee under this chapter must also comply with any other relevant permit requirement such as those required by the Fire Department and Division of Health.

E. If a licensee charges patrons for parking, the fifteen-percent parking tax required under §§ 304-1 through 304-3 must be paid to the City.

F. The licensee shall designate a person(s) as supervisor(s) of events and shall register his or her name with the Director. A supervisor shall be present during the dance or entertainment to assure that it is conducted in an orderly manner.

§ 157-9. Suspension or revocation; Director of Police or the Director of the Division of Commerce authorized.

1. A. Pursuant to a ten-day notice in writing to the licensee and after a hearing, the Director may suspend or revoke any license if:

(1) The owner, partner, or agent has been convicted of a crime under federal or state law;

(2) Has violated any of the provision of this chapter;

(3) Has been found responsible for any acts constituting a breach of the peace or a public nuisance;

(4) Where the Director finds the operation of the licensed premises detrimental to the health, safety and welfare of the people of the city.

B. The Director of Commerce or the Director of Police may suspend any license on an emergent basis for a period not exceeding 30 days after a hearing pursuant to two days' notice to the licensee for any of the grounds listed in Subsection A if the Director finds in addition that protection of the public health, safety or welfare requires an immediate suspension.

§ 157-10. Interpretative guide.

1. A. Severability. If any provision, or portion of a provision, of this chapter, or its application to any person or circumstances, shall be held invalid by a court of competent jurisdiction, the remainder of this chapter, or the application of the provision to other persons or circumstances, shall not be affected.

B. Preemption. Notwithstanding any other provisions of the Code, the conditions and restrictions placed on entertainment and dance in this Chapter supersede any other provisions found in other chapters of the Jersey City Municipal Code.

B. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

C. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Jersey City Code.

D. This ordinance shall take effect at the time and in the manner as provided by law.

E. The City Clerk and the Corporation Counsel may change any chapter numbers, article numbers and section numbers if codification of this ordinance reveals a conflict between those numbers and the existing code, in order to avoid confusion and possible accidental repealers of existing provisions.

Note: New matter is underlined.

For purposes of advertising only, new matter is indicated by **boldface** and repealed matter by *italic*.

APPROVED AS TO LEGAL FORM
J. Anne Monahan
1st Asst Corporation Counsel

APPROVED: _____

APPROVED: _____
Business Administrator

Certification Required
Not Required

Ordinance of the City of Jersey City, N.J.

ORDINANCE NO. Ord. 07-122

TITLE: 3.P. JUN 13 2007 4.P. JUN 27 2007



Ordinance supplementing Chapter 157 (Entertainment and Dance Licenses) of the Jersey City Code.

RECORD OF COUNCIL VOTE ON INTRODUCTION											
JUN 13 2007 8-0											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO	✓			GAUGHAN	ABSENT			BRENNAN	✓		
SPINELLO	✓			FULOP	✓			FLOOD	✓		
LIPSKI	✓			RICHARDSON	✓			VEGA, PRES.	✓		

✓ Indicates Vote

N.V.-Not Voting (Abstain)

RECORD OF COUNCIL VOTE TO CLOSE PUBLIC HEARING											
JUN 27 2007 7-0											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO	✓			GAUGHAN	✓			BRENNAN	ABSENT		
SPINELLO	✓			FULOP	ABSENT			FLOOD	✓		
LIPSKI	✓			RICHARDSON	✓			VEGA, PRES.	✓		

✓ Indicates Vote

LAVERN WASHINGTON

N.V.-Not Voting (Abstain)

RECORD OF COUNCIL VOTE ON AMENDMENTS, IF ANY											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO				GAUGHAN				BRENNAN			
SPINELLO				FULOP				FLOOD			
LIPSKI				RICHARDSON				VEGA, PRES.			

✓ Indicates Vote

N.V.-Not Voting (Abstain)

RECORD OF FINAL COUNCIL VOTE											
JUN 27 2007 9-0											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO	✓			GAUGHAN	✓			BRENNAN	ABSTAIN		
SPINELLO	✓			FULOP	✓			FLOOD	✓		
LIPSKI	✓			RICHARDSON	✓			VEGA, PRES.	✓		

✓ Indicates Vote

N.V.-Not Voting (Abstain)

Adopted on first reading of the Council of Jersey City, N.J. on JUN 13 2007

Adopted on second and final reading after hearing on JUN 27 2007

This is to certify that the foregoing Ordinance was adopted by the Municipal Council at its meeting on JUN 27 2007

Robert Byrne
Robert Byrne, City Clerk

APPROVED:
Mariano Vega, Jr.
Mariano Vega, Jr. Council President
Date: JUN 27 2007

APPROVED:
Jerramiah T. Healy
Jerramiah T. Healy, Mayor
Date: JUL - 3 2007
Date to Mayor JUN 28 2007

*Amendment(s):