

PURCHASING AND LICENSING COMMITTEE

11-055-0

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 8-40 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO THE ALCOHOLIC BEVERAGE CODE.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 8-40 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 8-40. Dancing and late hours entertainment licenses for liquor establishments.

(a) No person licensed to sell alcoholic or 3.2 malt liquor beverages on sale shall allow dancing participated in by the public or late hours entertainment on the licensed premises unless a license has been issued pursuant to this Section;

(b) A dance license, whether an annual, seasonal or a one day license, shall entitle the on sale licensee to have dancing participated in by the public on the licensed premises;

(1) Notwithstanding any provision of this Section or Chapter to the contrary, clubs and congressionally chartered veterans organizations that are open only to members and bona fide guests of members may have dancing participated in by members and guests, without securing a dance license;

(2) The term of the annual dance license shall be the same as the term of the on sale license. The term of the seasonal license is limited to the months of May through August;

(3) The fee for any dance license shall be set in accordance with Section 8-56(d). The fee for the annual license shall be prorated in the same manner as on sale licenses;

(4) The procedures and standards applicable to the issuance of the late hours entertainment license, where applicable,

shall apply to the issuance of the annual or seasonal dance license;

(5) The city clerk is authorized to issue the one day dance license. The following procedures and standards are applicable to the issuance of the one day dance license:

(A) No license shall be issued unless an application for the license is received by the city clerk at least sixty (60) days prior to the event date;

(B) The license is subject to approval by the police and fire departments. Such approval is subject to, but not limited to, the following standards:

1. No license shall be issued in an area or under circumstances that would result in the disturbance of adjoining properties or the surrounding neighborhood;

2. The police and fire departments shall apply the same considerations applicable to the late hours entertainment license;

3. The license may contain conditions and limitations concerning security for the event and the hours during which the dancing event may be held; however, the license shall not authorize dancing after the time authorized for the sale of alcohol;

4. The city clerk shall notify the licensee in writing of the action taken on the application by any reasonable means, including but not limited to, the United States mail or electronic transmission. The licensee may appeal the action of the city clerk to the alcohol, gambling and tobacco commission. The appeal is subject to the following procedures:

(i) The appeal shall be made in writing within seven days after written notice of the action is issued, on a form provided by the city clerk, and filed with the city clerk. The appeal shall be accompanied by an appeal fee which

shall be established by the city council pursuant to Section 31-6(a). The issues on appeal shall be limited to the issues presented in the written appeal;

(ii) In deciding the appeal the commission shall apply the same criteria required of the city clerk;

(iii) The decision of the commission shall be the final decision of the city subject to appeal to the Minnesota Court of Appeals pursuant to Minnesota Statutes Section 606.01;

(iv) The failure of the applicant to submit an application sufficiently in advance of the proposed dance event to allow for an appeal is the sole responsibility of the applicant;

(c) Notwithstanding any provision of this Section or Chapter to the contrary, late hours entertainment licenses may be issued to establishments holding on sale alcoholic beverage licenses or 3.2 malt liquor beverages if they meet the criteria set forth in Section 8-40(d). The late hours entertainment license shall allow the establishment to have music and entertainment, including dancing by patrons, after the hours when sales of alcoholic beverages are required to cease. The fee for such license shall be set in accordance with Section 8-56(d);

(d) The annual and seasonal dance license and the late hours entertainment license shall be subject to the following procedures and standards:

(1) Every application shall be investigated by the police and fire departments and alcohol, gambling and tobacco commission;

(2) No license shall be issued in an area or under circumstances where the dancing or late hours entertainment would

disturb adjoining properties or the surrounding neighborhood;

(3) In their investigation and recommendations, the police and fire departments and the alcohol, gambling and tobacco commission shall consider, without limitation:

(A) The proximity of the establishment to residences and residentially zoned property;

(B) The character of the neighborhood surrounding the establishment;

(C) Parking facilities at the establishment;

(D) The acoustic properties of the building housing the establishment;

(E) The past record of the establishment; and

(F) Any past complaints from adjoining property owners;

(4) The license may contain conditions and limitations concerning types of entertainment and hours of entertainment or dancing;

(5) No entertainment or dancing shall be allowed after 3:00 a.m.;

(6) All establishments allowing late hours dancing must have a dancing license as required by paragraphs (a) and (d) of this Section;

(7) During all times when dancing or late hours entertainment is conducted on the licensed premise the licensee shall provide adequate security personnel. The chief of police shall approve the security personnel plan. The licensee is responsible for all fees or expenses of such security personnel.

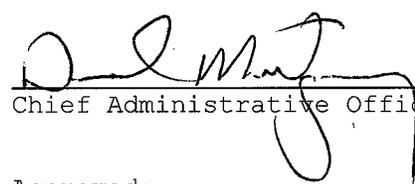
Section 2. That this ordinance shall take effect 30 days after its passage and publication.

Approved:



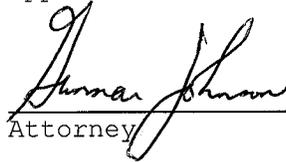
Department Director

Approved for presentation to council:



Chief Administrative Officer

Approved as to form:



Attorney

Approved:



Auditor

CLERKS/ATTY MAL:dma 11/01/2011

STATEMENT OF PURPOSE: This ordinance creates the authority to establish an appeal fee for appeals of an administrative denial of a one day dance license.