



## **CITY OF KIRKLAND**

**City Attorney's Office**  
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### **MEMORANDUM**

**To:** Kurt Triplett, City Manager

**From:** Kevin Raymond, City Attorney  
Ellie Krossa, Legal Intern

**Date:** July 20, 2017

**Subject:** AN ORDINANCE RELATING TO PUBLIC DANCE AND DANCE HALLS

#### **RECOMMENDATION:**

City Council pass the attached ordinance. This ordinance would repeal Kirkland Municipal Code ("KMC") Chapter 7.24, which sets forth definitions, regulations, and licensing requirements for public dance halls. By taking action on this legislation through adoption of the consent calendar, the Council is approving this ordinance.

#### **BACKGROUND DISCUSSION:**

This amendment has been recommended for consideration by Councilmember Toby Nixon as part of a review of the KMC. Chapter 7.24 KMC currently includes definitions, regulations and licensing requirements for public dance halls, which have not been revised since 1986. The Department of Finance and Administration and Police Department advise "dance halls" in Kirkland present no noteworthy regulatory issues and the issuance of "cabaret licenses" pursuant to the chapter have steadily declined over the years. There were only three such licenses issued in 2016, resulting in only \$300 in revenue to the City. The costs of administering the licenses (e.g. staff time) would have easily exceeded that \$300 in revenue. There were only four cabaret licenses issued in 2015, and just two in 2014. Chapter 7.24 KMC relating to Dance Halls is separate from Chapter 7.26 KMC relating to Erotic Performance Establishments, which will continue to require Erotic Performance Establishment licenses.

Chapter 7.24 KMC is recommended for repeal as no longer necessary from a regulatory perspective and also as a program that is not cost effective to administer. This ordinance has been reviewed and approved by the Police Chief, Director of Parks and Community Services and the Director of Finance and Administration.

A copy of the language in Chapter 7.24 KMC that will be deleted is included as Attachment A hereto for your reference.

Attachment A: Chapter 7.24 KMC

## Chapter 7.24 DANCES AND DANCE HALLS

### Sections:

- [7.24.010](#) Definitions.
- [7.24.020](#) Dance hall—License required—Exception.
- [7.24.030](#) Dance hall license—Rules governing—Fee.
- [7.24.040](#) Dance—Permit required—Fee.
- [7.24.050](#) Unlawful operation.
- [7.24.060](#) Additional regulations when persons under eighteen admitted—Exceptions.
- [7.24.061](#) Purpose—Construction—Election of other remedies.
- [7.24.062](#) Hours of operation—Age restrictions—Penalty.
- [7.24.063](#) Readmission fee.
- [7.24.064](#) Access—Peace officer—Director.
- [7.24.065](#) Licensing—Retroactivity.
- [7.24.066](#) Indemnification.

### **7.24.010 Definitions.**

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- (a) “Public dance” includes any dance to which the general public is admitted for which an attendance charge or donation is imposed as a condition of attendance.
- (b) “Public dance hall” means any place where public dancing is permitted or conducted as a part of the normal course of business of such place. (Ord. 1060 § 1, 1966)

### **7.24.020 Dance hall—License required—Exception.**

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It is unlawful to open up, conduct, manage, operate or maintain a public dance hall within the city without a valid and subsisting public dance hall license, provided however, that any holder of a valid cabaret dance license shall be exempt from the license provisions of this chapter so long as the cabaret dance license is kept current and valid. (Ord. 1060 § 2, 1966)

### **7.24.030 Dance hall license—Rules governing—Fee.**

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Public dance hall licenses, their issuance and revocation shall be governed by Sections [7.20.030](#), [7.20.040](#) and [7.20.080](#) of this title. The annual license fee for a public dance hall license shall be one hundred dollars. (Ord. 1060 § 3, 1966)

### **7.24.040 Dance—Permit required—Fee.**

It is unlawful to hold a public dance whether or not such public dance takes place on premises licensed as a public dance hall, without first having obtained a permit therefor from the city at least forty-eight hours prior to the commencement of the public dance for which said permit is requested. The fee for dance permits shall be twenty-five dollars for the giving or holding of each dance, provided however, that such fee shall be waived as to current and valid dance hall licenses and cabaret dance licenses when the dance is to be held upon the licensed premises. (Ord. 2806 § 2, 1984; Ord. 1060 § 4, 1966)

### **7.24.050 Unlawful operation.**

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It is unlawful for a person or business to whom a dance hall license or permit has been issued, including any owners, officers or employees thereof, to conduct the dance or other activity in violation of any applicable state or local law, statute or ordinance. (Ord. 2806 § 3, 1984)

#### **7.24.060 Additional regulations when persons under eighteen admitted—Exceptions.**

Any person holding a dance hall license or dance permit shall in addition to the requirements of Sections [7.24.010](#) through [7.24.050](#) also comply with the provisions of Sections [7.24.060](#) through [7.24.066](#), inclusive, when persons under eighteen are admitted or allowed to be present during any public dance, or on the premises of any public dance hall. The provisions of this chapter shall not apply if the public dance is sponsored or conducted by an accredited educational institutional. (Ord. 2936 § 1 (part), 1986)

#### **7.24.061 Purpose—Construction—Election of other remedies.**

The amendatory ordinance codified in Sections [7.24.060](#) through [7.24.066](#) is an exercise of police power for the protection of the public welfare, health and safety of those children that attend and patronize dance halls. The city council finds and declares that the pervasive problems of runaway children, drug abuse and abuse of children are problems of such magnitude that they are a matter of city concern and are contributed to by unregulated dance halls; as such the amendatory ordinance codified in Sections [7.24.060](#) through [7.24.066](#) shall regulate dance halls that admit persons under the age of eighteen. The provisions of the amendatory ordinance codified in Sections [7.24.060](#) through [7.24.066](#) shall be construed liberally for the accomplishment of the purposes thereof. Nothing contained in the amendatory ordinance codified in Sections [7.24.060](#) through [7.24.066](#) shall be deemed to repeal or modify any of the provisions of any other law or ordinance of the city relating to dance halls or licensing. (Ord. 2936 § 1 (part), 1986)

#### **7.24.062 Hours of operation—Age restrictions—Penalty.**

- (a) No person conducting a public dance or person maintaining a public dance hall shall allow persons under the age of sixteen to enter or remain on the premises unless accompanied by their parent or legal guardian.
- (b) No person conducting or operating a public dance or public dance hall shall allow persons under the age of eighteen to enter or remain on the premises unless accompanied by their parent or legal guardian after two a.m.
- (c) Every person who knowingly or recklessly shall allow a person to enter or remain in violation of this section shall be guilty of a misdemeanor. It is the responsibility of the person conducting and/or operating a public dance to require identification showing the age of each person admitted.
- (d) Any person under the age of eighteen years who shall by affirmative misrepresentation of age obtain admission to or permission to remain in any public dance in violation of this chapter shall be guilty of a misdemeanor.
- (e) For the purposes of this section, the word “premises” shall include the dance hall structure or building, including entrance ways, hallways, grounds, yards and off-street parking facilities available for utilization by patrons or employees of the dance hall. (Ord. 2936 § 1 (part), 1986)

#### **7.24.063 Readmission fee.**

No person conducting or operating a public dance or public dance hall shall permit any person, other than an employee, to leave the dance or dance hall and return unless that person pays a readmission fee equal to, or greater than, one-half the original price of admission. (Ord. 2936 § 1 (part), 1986)

**7.24.064 Access—Peace officer—Director.**

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All peace officers of the city and/or the director of the department of finance and administration shall have free access to public dances and dance halls when a dance is being conducted for the purpose of inspection and to enforce compliance with the provisions of Sections [7.24.060](#) through [7.24.066](#). (Ord. 4416 § 45, 2013: Ord. 3573 § 56, 1997: Ord. 2936 § 1 (part), 1986)

**7.24.065 Licensing—Retroactivity.**

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All licenses issued prior to the effective date of the ordinance codified herein shall entitle the holder of such license a period of thirty-five days, following the effective date of the ordinance, to comply with the provisions of Sections [7.24.060](#) through [7.24.066](#). (Ord. 2936 § 1 (part), 1986)

**7.24.066 Indemnification.**

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(a) The licensee shall indemnify and hold the city harmless from any and all losses, claims, actions, or damages suffered by any person or persons by reason of or resulting from any negligence of the licensee or its agents, employees, or patrons or on account of any act or omission of the licensee in its exercise of its license or use or occupancy of the premises. In the event any suit or action is brought against the city, the licensee shall, upon notice of the commencement thereof, defend the same, at no cost and expense to the city, and promptly satisfy any final judgment adverse to the city or to the city and the licensee jointly; provided, that in the event the city determines that one or more principles of governmental or public law are involved, the city retains the right to participate in such action. The above liability shall not be diminished by the fact, if it be a fact, that any such death, injury, damage, loss, cost, or expense may have been, or may be alleged to have been, contributed to by the negligence of the city or its officers, employees, or agents; provided, however, that nothing contained in this section shall be construed as requiring the licensee to indemnify the city against liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the city or its officers, employees or agents.

(b) As a condition precedent to obtaining a license, the licensee shall, at no expense to the city, secure and maintain during the full term of this agreement general comprehensive liability insurance issued by one or more companies authorized to do business in the state of Washington, which insurance shall be subject to the approval of the city attorney as to company, form, coverage, and which insurance must fully protect the city from any and all claims and risks in connection with any activity performed by the licensee by virtue of this agreement and provide the following minimum coverage:

- (1) One million dollars per person, per occurrence;
- (2) One million dollars annual aggregate.

Said policy must specifically name the city of Kirkland as an additional insured party thereunder in the following manner:

The City of Kirkland is an additional insured for all coverages provided by this policy of insurance and shall be fully and completely protected by this policy and for any claim, suit, injury, death, damage or loss of any sort sustained by a person, organization or corporation in connection with any activity upon or use or occupancy of establishments regulated by this section.

The coverages provided by this policy to the City or any other named insured shall not be terminated, reduced, or otherwise changed in any respect without providing at least thirty (30) days' prior written notice to the department of finance and administration of the City of Kirkland.

(c) The licensee shall deliver to the department of finance and administration of the city a copy of all policies required under this provision and all endorsements thereto or other evidence to the reasonable satisfaction of the department of finance and administration that the licensee has secured or renewed and is maintaining insurance as required by this section.

(d) The procuring of the insurance required by this section shall not be construed to limit licensee's liability hereunder.

(e) Licensee shall provide for the prompt and efficient handling of all claims for injury, death, damage or loss arising out of the acts or omissions of licensee during the term of this section. Licensee agrees that all such claims, whether processed by licensee or its insurer, either directly or by means of an agent, will be handled by a person with a permanent office within the corporate limits of Kirkland. (Ord. 4416 § 46, 2013; Ord. 3573 § 57, 1997; Ord. 2936 § 1 (part), 1986)

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**The Kirkland Municipal Code is current through Ordinance 4582, passed June 20, 2017.**

Disclaimer: The City Clerk's Office has the official version of the Kirkland Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

ORDINANCE O-4587

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO DANCE AND DANCE HALLS.

1           WHEREAS, as part of a review of the Kirkland Municipal Code  
2 ("KMC") by Councilmember Toby Nixon, it was recommended that  
3 Chapter 7.24 of the KMC related to Dance and Dance Halls be repealed  
4 as outdated and unnecessary language.

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6           NOW, THEREFORE, the City Council of the City of Kirkland do  
7 ordain as follows:

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9           Section 1. Kirkland Municipal Code Chapter 7.24 is hereby  
10 repealed.

11  
12           Section 2. If any provision of this ordinance or its application to  
13 any person or circumstance is held invalid, the remainder of the  
14 ordinance or the application of the provision to other persons or  
15 circumstances is not affected.

16  
17           Section 3. This ordinance shall be in force and effect five days  
18 from and after its passage by the Kirkland City Council and publication,  
19 as required by law.

20  
21           Passed by majority vote of the Kirkland City Council in open  
22 meeting this \_\_\_\_ day of \_\_\_\_\_, 2017.

23  
24           Signed in authentication thereof this \_\_\_\_ day of  
25 \_\_\_\_\_, 2017.

\_\_\_\_\_  
Amy Walen, Mayor

Attest:

\_\_\_\_\_  
Kathi Anderson, City Clerk

Approved as to Form:

\_\_\_\_\_  
Kevin Raymond, City Attorney