

FILED

DEC 08 2016

**GENERAL ORDINANCE NO. 18, 2016
AS AMENDED, AS AMENDED**

CITY CLERK

AN ORDINANCE AMENDING *TERRE HAUTE CITY CODE* CHAPTER 6, TO ESTABLISH A DANCE PERMIT AND CERTAIN REGULATIONS.

WHEREAS, I.C. § 36-8-2-4 authorizes the City of Terre Haute to regulate the conduct, use or possession of property which might endanger health, public safety, or the welfare of its citizens; and

WHEREAS, I.C. § 36-8-2-9 authorizes the City of Terre Haute to regulate public gatherings to ensure the health, safety, and welfare of its citizens; and

WHEREAS, in order to protect the public health, safety, and welfare of its citizens, it is essential that provisions be implemented to regulate certain public activities or events that may occur within the corporate limits; and

THEREFORE, BE IT ORDAINED by the Common Council for the City of Terre Haute, Indiana, that *Terre Haute City Code* Chapter 6, is hereby amended by the insertion of Article 22 as follows:

ARTICLE 22. DANCE PERMITS.

Sec. 4-310 Permit Required.

It shall be unlawful for any person to hold any dance, 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 permit from the Board of Public Works and Safety. Whenever a dance 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, the owner and lessee of the property along with the person holding the dance must jointly obtain a dance 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 held by a fraternal, educational, governmental, charitable or religious organization or a bona fide club, as long as the dance is not open to the general public and admission to the dance is limited to members and invited guests, and the dance 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 which is not advertised 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 on the permitted premises and where entry is limited to persons who are twenty-one (21) years of age or older;
- d. For dances which are 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; or
- e. For any school or class, the purpose of which is to teach dancing.

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 and who will be responsible for managing the dance;
- 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 will be held;

d. Whether the dance 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 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, 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. 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.

Sec. 4-314 Denial; Grounds.

a. The Board of Public Works & Safety shall not issue a dance permit to any person who has not reached the age of twenty-one (21) years, or who has been ~~convicted of a felony~~ designated a sex or violent offender, as defined by I.C. 11-8-8-5.

b. The Board of Public Works & Safety shall not issue a dance 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 twenty-one (21) years who will be present for the duration of the dance and who will be responsible for managing the dance;

c. In addition to any other reasons stated in this Article, the Board 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;

(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 held or managed by him, 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, and the dance 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.

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 and Safety.

Sec. 4-316 Zoning Required.

It shall be unlawful for any person to hold any dance, 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 at one (1) location for a continuous period, and a separate permit shall be required for each dance.

b. In lieu of obtaining separate dance 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 dances which are applicable to this article. Annual dance permits may be issued for specific dances throughout the year if the appropriate dates and times are supplied at the time the application is submitted and said dances are limited to one (1) location. Separate dance permits for an applicant that has obtained an annual permit are only required if the applicant wishes to hold a dance 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 permit.

c. Under no circumstances may any part of a permitted dance 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 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 suspend or revoke an issued permit if any of the following conditions are determined or 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 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.

(9) Violations of state, local or federal code are found to have been committed during the permitted dance.

b. In the event that a permit is suspended or revoked, the dance 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.

Sec. 4-319 Permit Fee.

A dance permit fee in the amount of ~~One Hundred Fifty Dollars (\$150.00)~~ Fifty Dollars (\$50.00) shall be paid for each permit issued pursuant to this Article. Any registered non-for-profit organization applying for a permit pursuant to this Article shall be exempt from paying a permit fee.


Sec. 4-320 Enforcement; Violations.

a. The Board of Public Works and Safety designates officers of the City of Terre Haute Police Department, Fire Department, and Building Inspection Office to inspect and enforce the provisions of this Article.

b. Any permit holder found to be in violation of any provision of this Article shall, in addition to the immediate suspension or revocation of the permit, be subject to a fine not to exceed Two Thousand Five Hundred Dollars (\$2,500.00).

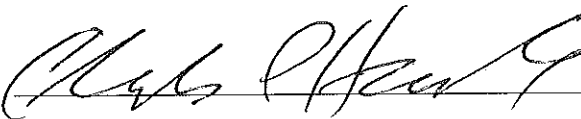
SECTION 2. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

WHEREAS, an emergency exists for the immediate taking effect of the Ordinance, the same shall be in full force and effect from and after its passage by the Common Council of Terre Haute, Indiana and its approval by the Mayor and publication as required by law.

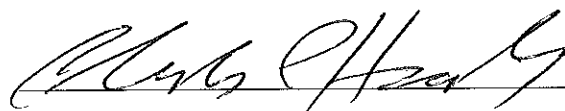
Introduced by:  Karrum Nasser, Councilman

Passed in open Council this 9th day of December, 2016.


 Todd Nation, President

ATTEST:  Charles P. Hanley, City Clerk

Presented by me to the Mayor this 9th day of December, 2016.

 Charles P. Hanley, City Clerk

Approved by me, the Mayor, this 9th day of DECEMBER, 2016.

 Duke A. Bennett, Mayor

ATTEST:  Charles P. Hanley, City Clerk

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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 which is not advertised 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 on the permitted premises and where entry is limited to persons who are twenty-one (21) years of age or older;

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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 will be held;

d. Whether the dance 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 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, has ever been convicted of a felony or misdemeanor;

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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.

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c. In addition to any other reasons stated in this Article, the Board 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;

(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 held or managed by him, 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, and the dance 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;

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are applicable to this article. Annual dance permits may be issued for specific dances throughout the year if the appropriate dates and times are supplied at the time the application is submitted and said dances are limited to one (1) location. Separate dance permits for an applicant that has obtained an annual permit are only required if the applicant wishes to hold a dance 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 permit.

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(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 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.

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b. Any permit holder found to be in violation of any provision of this Article shall, in addition to the immediate suspension or revocation of the permit, be subject to a fine not to exceed Two Thousand Five Hundred Dollars (\$2,500.00).

SECTION 2. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

WHEREAS, an emergency exists for the immediate taking effect of the Ordinance, the same shall be in full force and effect from and after its passage by the Common Council of Terre Haute, Indiana and its approval by the Mayor and publication as required by law.

Introduced by:  Karrum Nasser, Councilman

Passed in open Council this _____ day of _____, 2016.

_____ Todd Nation, President

ATTEST: _____ Charles P. Hanley, City Clerk

Presented by me to the Mayor this _____ day of _____, 2016.

_____ Charles P. Hanley, City Clerk

Approved by me, the Mayor, this _____ day of _____, 2016.

_____ Duke A. Bennett, Mayor

ATTEST: _____ Charles P. Hanley, City Clerk