

## AMPLIFIED/LIVE ENTERTAINMENT

(a) Purposes and Intents.

- (1) Findings. The city council finds and determines that the potential proliferation of locations with amplified/live entertainment within the city presents problems that are encountered by residents of the city including, but not limited to littering, loitering, public intoxication, disturbances, discouragement of more desirable and needed commercial uses and other similar problems connected primarily with the regular congregation of persons around such establishments.
- (2) The city council also finds and determines that the existence of such problems creates a serious impact on the peace, health, safety, and welfare of residents of nearby areas including fear for the safety of their children and visitors to the area, as well as contributing to the deterioration of their neighborhoods, and concomitant devaluation of their property and destruction of their community values and quality of life.
- (3) These ordinances are intended and designed to deal with and ameliorate these problems and conditions by restricting the placement of such locations in relation to one another, and their proximity to facilities primarily devoted to use by children and families and the general public, and concentrating said locations in areas of minimal impact by the imposition of reasonable conditions upon the operation of all such amplified/live entertainment locations.

(b) Amplified/Live Entertainment Permit

- (1) Notwithstanding section (i), any business desiring to provide amplified/live entertainment between the hours of 10:00 p.m. and 7:00 a.m. must obtain a permit.
- (2) The permit shall be valid only for the fiscal year (July 1 – June 30) in which the permit is issued.
- (3) An applicant shall pay five hundred dollars (\$500.00) for the annual amplified/live entertainment permit.
- (4) The landlord and tenant of a location where amplified/live entertainment would potentially occur must submit a joint application for an amplified/live entertainment permit.
- (5) The permit shall only be issued in the name of the tenant irrespective of whether tenant is individual, sole proprietorship, partnership, corporation, or any variation thereof.

(c) Any applicant for an amplified/live entertainment permit must meet the following provisions before a permit may be issued:

- (1) Exterior lighting of the parking area shall be kept at an intensity of at least one (1) foot candle of light on the parking surface during the hours of darkness.
- (2) A license or lease of said parking lot showing that the permittee of an amplified/live entertainment permit has the legal right to occupy and control the parking lot during times of operation of the amplified/live entertainment.
- (3) All buildings containing amplified/live entertainment shall be insulated, have fixed windows, and an adequate air conditioning system, all as required by the adopted building code of the city. In addition, double stacked doors in series with an airlock between the doors may be provided at the main entrance of all buildings containing amplified/live entertainment. The size of the airlock in area shall meet the requirements of the city building code or Americans with Disabilities Act, whichever is larger.

- (4) Amplified/live entertainment shall be permitted only inside a fully enclosed structure meeting the standards of this section.
- (5) Any location for an amplified/live entertainment permit must meet the parking requirements of one (1) space for every one hundred (100) square feet of gross floor area.
- (6) Any location for an amplified/live entertainment permit shall be greater than one thousand (1000) feet from another location with a valid permit and shall not be within the same building, structure, or parcel where a currently valid amplified/live entertainment permit has been issued; said measurements being made from the point of the first location requesting an amplified/live entertainment permit to the second location with a valid amplified/live entertainment permit. Priority for any future issuance of a new amplified/live entertainment permit at the same location shall be given to a previous applicant who has not met the requirements in subsection (g)(2) during previous fiscal year and has met the requirements of subsection (c).
- (7) A location for an amplified/live entertainment permit shall not be located within one thousand (1000) feet of any residential zoning district, any single family residence, any church or place of worship or any hotel/motel; said measurements being made from the point of the commercial lot line nearest any residential district, use or hotel/motel.
- (8) Each individual or individuals comprising a sole proprietorship, partnership, corporation, or any variation thereof must submit to a background check. Any individual who has committed a misdemeanor within the last two years or a felony within the last three years shall have the amplified/live entertainment permit denied as to that individual or to the sole proprietorship, partnership, corporation, or any variation thereof which the individual is a part of. Each individual shall pay the cost of the background check performed by the police department.
- (9) Each of tenant's employees comprising the sole proprietorship, partnership, corporation, or any variation thereof must submit to a background check, no employees may be hired who committed a misdemeanor within the last two years or a felony within the last three years. Each employee shall pay the cost of the background check performed by the police department.
- (10) Any applicant must have paid in full any prior civil penalties, served any suspension issued by the city council, or fulfilled the time requirements in subsection (g)(2) for any revocation.

(d) An amplified/live entertainment permittee must perform the following after issuance of an amplified/live entertainment permit:

- (1) Remove any litter or debris coming from the patrons or the establishment within twelve (12) hours of the business closing.
- (2) The noise levels generated by the operation of amplified/live entertainment shall not exceed the requirements of chapter 14.1 of this Code of Ordinances on adjoining properties zoned and/or occupied for residential purposes or occupied by a hotel/motel.
- (3) Close for business at 2:00 a.m. and instruct all patrons to vacate the premises thereafter by 3:00 a.m. for any location with amplified/live entertainment permit.
- (4) Only utilize or employ security personnel that are licensed in accordance with Chapter 74C of the North Carolina General Statutes.
- (5) Not utilize or employ any personnel convicted of a misdemeanor within the last two years or felony within the last three years.

(6) Any individual or individuals comprising a sole proprietorship, partnership, corporation, or any variation thereof may not be convicted of a misdemeanor within the last two years or felony within the last three years.

(e) Civil penalty

- (1) No more than five (5) civil penalties may be issued within a fiscal year against a permittee. Each person or action that violates this ordinance shall constitute a separate and distinct violation thereby subjecting the permittee to a civil penalty or suspension or revocation of the amplified/live entertainment permit.
- (2) A civil penalty may be issued if any of the following occurs:
  - (a) a failure to abide by the requirements in section (c) or (d).
  - (b) at least three (3) arrests of patrons at an amplified/live entertainment permitted location.
  - (c) three (3) violations of any city ordinance at the location within the preceding twelve (12) month period.

(3) Amounts for each civil penalty:

- (a) 1<sup>st</sup> civil penalty: \$125.00
- (b) 2<sup>nd</sup> civil penalty: \$250.00
- (c) 3<sup>rd</sup> civil penalty: \$500.00
- (d) 4<sup>th</sup> civil penalty: \$1000.00
- (e) 5<sup>th</sup> civil penalty: \$2000.00

(f) A permit for an amplified/live entertainment may be suspended if the permittee has been issued at least two (2) prior civil penalties within a fiscal year or will be suspended after the permittee has reached the limit of five (5) civil penalties. Three (3) months shall serve as the mandatory time for any suspension.

(g) Revocation

- (1) A permit for an amplified/live entertainment may be revoked:
  - (a) if a permit has been suspended at least twice in a fiscal year; or
  - (b) if a civil penalty has not been paid within thirty (30) days after being issued; or
  - (c) if any false, misleading, or intentionally omitted information is submitted upon the application for an amplified/live entertainment permit; or
  - (d) if a court of competent jurisdiction has adjudicated the location where an amplified/live entertainment permit has been issued to be a public nuisance under Chapter 19 of the North Carolina General Statutes.
- (2) Any permittee whose amplified/live entertainment permit is revoked is ineligible to apply for a new permit in the fiscal year immediately after the fiscal year in which the amplified/live entertainment permit was revoked.

(h) Any amplified/live entertainment permit eligible for suspension or revocation shall be heard before the city council at its next regularly scheduled meeting after notification has been issued to the permittee.

(i) This section shall not apply to any religious service, the Carolina Civic Center, or any city-sponsored event.