



Louisville Metro Government

Legislation Text

File #: O-066-15, Version: 3

ORDINANCE NO. _____, SERIES 2015

AN ORDINANCE CREATING CHAPTER OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT CODE OF ORDINANCES [LMCO] RELATING TO PUBLIC "POP-UP" PARTIES (As Amended).

SPONSORED BY: COUNCILMEMBERS BUTLER, WELCH, WOOLRIDGE, YATES, JOHNSON AND JAMES

WHEREAS, Metro Council has become increasingly concerned about unsafe public parties in our community where underage children are exposed to alcohol, illegal drugs, and predatory-type sexual crimes;

WHEREAS, the increase number of vacant homes and properties in our community have become conducive to these "pop-up" parties that appear to target pre-teens and young teenagers;

WHEREAS, these public parties are not regulated under the law; and

WHEREAS, Metro Council seeks to regulate said parties to protect the health and safety of the minors who attend these events.

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE "COUNCIL") AS FOLLOWS:

Section 1: LMCO section _____.01 is hereby created to read as follows:

§ _____.01 DEFINITIONS.

Law enforcement personnel. Means either: (A) a person with prior commissioned law enforcement experience from any federal, state, or local jurisdiction occurring within five years of the date of application excluding constables; or (B) *security guard* - in order to qualify as a security guard, a person must meet the following minimal security qualifications: (1) be at least 18 years of age or older; (2) submit a set of fingerprints; (3) satisfy subsections 4, 5, and 6 of LMCO 124.05; and (4) submit proof of satisfactory completion of training pursuant to KRS 15.334 or the armed security guard requirements set forth in LMCO Chapter 124.

Licensee. Any person licensed to operate a public entertainment gathering.

Minor. Person who is under 18 years of age.

Public entertainment gathering. Any assembly that is open to the public for the purpose of dancing and/or

listening to music, which allows the entrance of minors; and (A) is conducted for a direct or indirect profit and (B) requires a monetary payment or contribution from the persons admitted. Public entertainment does not include a banquet, party, or celebration conducted for invited guests which is not open to the public and for which no fee or membership contribution is required; or any party held by a Kentucky Commonwealth and/or Louisville/Jefferson County Metro Government licensed liquor establishment, or at any location where alcoholic beverages are legally served, sold, dispensed or permitted on the premises in accordance with Kentucky and Louisville Metro alcoholic beverage laws.

Section 2: LMCO section _____ is hereby created to read as follows:

§ ___ License Required

(A) It is unlawful for any person to conduct a public entertainment gathering within Louisville Metro without first having obtained a license for such activity. The person desiring to conduct a public entertainment gathering shall be responsible for obtaining a license, and paying the annual fee charged pursuant to the fee schedule issued by the Louisville Metro Government, Department of Codes and Regulations.

(B) A license is not required under this article if the public entertainment gathering is conducted by:

- (1) Commonwealth of Kentucky, Louisville Metro Government, or any suburban city in Jefferson County;
- (2) Organizations holding valid charitable solicitation permit;
- (3) Bona fide youth organizations or athletic teams registered with the state or national organization;
- (34) Bona fide publicly recognized religious organization; or
- (45) Any college, university, or school accredited by any state department of education.

(C) The Department of Codes and Regulations may require any organization or individual claiming exemption to appear and present evidence to support said exemption.

Section 3: LMCO section _____ is hereby created to read as follows:

§ ___ Security Personnel Required.

(A) The licensee shall have a minimum of two (2) law enforcement personnel at a public entertainment gathering for up to the first 50 persons in attendance and then an additional law enforcement personnel for each additional 50 persons in attendance.

(B) All security persons are required to wear a uniform while on duty.

Section 4: LMCO section _____ is hereby created to read as follows:

§ ___ Age Restrictions.

(A) No person conducting a public entertainment gathering or maintaining a facility used for a public entertainment gathering shall knowingly allow persons under the age of 16 years to enter or remain without a parent or legal guardian present; provided, that the presence of a parent or legal guardian shall not be required if the public entertainment gathering is limited to persons 17 years of age or younger. In such case, no persons 18 years of age or older shall knowingly be allowed to enter or remain on the premises with the exception of parents or guardians of the patrons, employees of the entertainment hall or entertainers hired by the entertainment hall to perform.

(B) It is the sole responsibility of the licensee and any other person operating a public entertainment to require identification showing the age of each person admitted. A valid driver's license or photo identification card issued by a state department of licensing or school picture identification card bearing the current year's date shall be the only acceptable forms of proof of age.

Section 5: LMCO section _____ is hereby created to read as follows:

§ ___ Hours Of Operation.

~~Public entertainment gatherings may not operate past midnight.~~ To comply with curfew laws public entertainment gatherings may not operate past midnight on Friday and Saturday and 10:00pm Sunday through Monday.

Section 6: LMCO section _____ is hereby created to read as follows:

§ ___ Inspection Access.

All police, fire, and Department of Codes and Regulations officers, shall have free access to public entertainment gatherings when an event is being conducted, for the purpose of inspection and to enforce compliance with the provisions of this chapter and other applicable city, county and state health, zoning, building, fire and safety ordinances and laws.

Section 7: LMCO section _____ is hereby created to read as follows:

§ ___ License Types and Application.

(A) Annual licenses are available for licensees who intend to regularly hold public entertainment gatherings at the same address. Applications for any license or renewal of any license pursuant to this chapter should be submitted in writing on forms provided by the Department of Codes and Regulations at least 30 days prior to the first entertainment gathering or, in the case of renewals, at least 30 days prior to the expiration date of the existing license. Applications submitted less than 30 days prior to an event may be charged a processing fee in addition to the regular fee.

(B) A limited license for a single event may be issued under this chapter by the Department of Codes and Regulations and licensee shall pay a single event fee pursuant to Louisville Metro fee schedule. No more than three

limited licenses in any calendar month or more than six limited licenses in any calendar year will be issued by the Department of Codes and Regulations unless the full annual license fee has been paid.

(C) In addition to other information requested, applications must contain the names and addresses of the officers, directors or partners thereof; the address and description of the premises to be licensed, including the designated parking area; the time and date of the entertainment or entertainments to be held; a list of any and all criminal convictions or forfeitures within five years immediately preceding the date of the application, other than parking offenses or minor traffic infractions, including the dates of conviction, nature of the crime, name and location of court, and disposition for the applicant; any officers, directors, or partners; and all employers, employees or any other person involved in the operation of the entertainment hall, and the names of persons employed as security persons, together with proof that the requirements for their security training have been met.

(C) The Louisville Metro Government, Department of Codes and Regulations must be notified within 10 days of any changes in the information required in this section.

Section 8: LMCO section _____ is hereby created to read as follows:

§ ___ Police and Fire Investigation.

(A) Applications for a license under this article may be referred to the Louisville Metro Police Department for investigation of information contained therein. The Louisville Metro Police Department is to provide the results of such investigation to the Department of Codes and Regulations.

(B) Upon notification of the application for a license under this article, a Fire Marshal will inspect the premises to be used for a public entertainment gathering to ensure it complies with the fire code. The Fire Marshal is to report the results of said inspection to the Department of Codes and Regulations.

Section 9: LMCO section _____ is hereby created to read as follows:

§ ___ Criteria for Approval or Renewal.

(A) The Department of Codes and Regulations may issue a license under this chapter so long as the following conditions are met:

(1) The building, structure, equipment or location for the place of public entertainment gathering complies with the requirements or meets the standards of the health, zoning, building, fire safety or other applicable laws and ordinances of the state, county and the city, or the requirements of this chapter.

(2) The location of the public entertainment gathering is not an unreasonable or inappropriate interference

with surrounding land uses or is otherwise unreasonably detrimental to the public welfare.

(3) The applicant or any of the applicant's employers, officers, directors, partners, operators, employees or any other person involved in the operation or business of the public entertainment gathering has not been convicted within the last five years of:

- (a) Any crime involving prostitution or sexual offenses under KRS 510;
- (b) Any crime involving possession or trafficking of narcotics;
- (c) Any felony assault or unlawful possession of a firearm; or
- (d) Business or commercial fraud, extortion, or receiving stolen property.

(4) The applicant or any of the applicant's employers, officers, directors, partners, operators, employees or any other person involved in the operation or business of the public entertainment gatherings has not committed any act which, if committed by a licensee, would be grounds for the suspension or revocation of a license pursuant to this title.

(5) The applicant has submitted proof of insurance policy in the amount of \$100,000 property damages, \$1,000,000 for injury of death of one person, and \$3,000,000 for injury of death of more than one person per incident arising out of a premise used to operate a public entertainment gathering.

(B) Any applicant denied a license may reapply and be granted a license if the applicant can prove the basis for such denial no longer exists. Denied applicants may appeal pursuant to this chapter.

(C) Applications for renewal of a license issued shall be processed and considered according to the criteria for the initial issuance of the license.

Section 10: LMCO section _____ is hereby created to read as follows:

§ ___ Unlawful Activity at Public Entertainment Gatherings.

(A) The licensee or his or her employee, agent, partner, employer, director, officer or manager may not knowingly allow or permit:

- (1) A felony to occur in or upon the premises of public entertainment gathering;
- (2) A crime involving prostitution, promoting prostitution, lewd conduct or assault on to occur in or upon the entertainment hall premises;
- (3) Any unlawful act of or solicitations for sexual intercourse, sodomy, indecent exposure or masturbation to be committed in or upon the premises of public entertainment gathering;

- (4) The possession or consumption of alcohol by persons under the age of 21 years in or upon the premises of public entertainment gathering;
- (5) The giving or supplying of alcohol to any person under the age of 21 years;
- (6) The use by any person in or upon the public entertainment hall premises of marijuana, cocaine or any other controlled substance as defined in KRS 218A, not prescribed by a licensed physician for use by the person possessing or using the substance;
- (7) Violation of any provision of this chapter, or of any other applicable law or ordinance, which the Director of the Department of Codes and Regulations finds constitutes an unreasonable interference with surrounding land uses or is otherwise unreasonably detrimental to the public welfare;
- (8) Failure to timely file and pay any occupational license tax, property taxes, or other fees owed to Louisville Metro; or
- (9) Allowing any person under the influence of intoxicants or drugs into or to remain on the premises of public entertainment gathering.

(B) Sound from the entertainment gathering may not be audible from a distance greater than 50 feet away from the entertainment hall.

Section 11: LMCO section _____ is hereby created to read as follows:

§ ____ **Revocation or Suspension of License.**

(A) A license issued pursuant to this chapter may be suspended or revoked by Director of the Department of Codes and Regulation subject to appeal pursuant to this section. A license may be suspended or revoked for the following reasons:

- (1) Fraud, misrepresentation or false statement contained in the application for a license.
- (2) Fraud, misrepresentation or false statement made in connection with operation.
- (3) Any facts of conditions which would justify the denial of the original application.
- (4) Any felony or misdemeanor conviction for offenses listed in § ____.(A)(3) [****see page 6**].

(B) This section shall be self-executing and the suspension or revocation shall be effective immediately. The Director of the Department of Codes and Regulation shall give notice of the suspension or

revocation of the license. Notice is sufficient if either hand-delivered or mailed to the licensee at the address as listed on the licensee's application.

(C) It is unlawful for any person whose license has been suspended or revoked to continue operating a public entertainment gathering.

Section 12: LMCO section _____ is hereby created to read as follows:

§ ____ **Appeal.**

(A) Any person aggrieved by the denial of an application for a license or by suspension or revocation of a license as provided for in this chapter, shall have the right to appeal to the Director of the Department of Codes and Regulations such denial, suspension or revocation. The person affected thereby has ten (10) business days from the date of receipt of said notice of denial, suspension or revocation to appeal the Department's decision by notifying the Director of the Department of Codes and Regulations in writing of the basis for said appeal. The notice of appeal may be hand delivered to the Director or sent certified mail, return receipt requested. Unless a timely notice of appeal is received, the decision of the Director of the Department of Codes and Regulations shall be final.

(B) Upon receipt of an appeal, the Director of the Department of Codes and Regulations shall schedule a time and date for the appeal to be heard before the Code Enforcement Board pursuant to LMCO 32.275 *et. seq.* The Director shall notify the appellant in writing of the hearing date via first class mail. The appellant may request an alternate hearing date that should be no more than thirty (30) days after the originally scheduled date.

Section 13: LMCO section _____ is hereby created to read as follows:

§ ____ **Penalty.**

(A) Any person who violates any provision of this chapter shall be subject to a civil penalty of not less than \$100 and no more than \$1,000 as imposed by the Director. A second offense will be subject to a civil penalty of not less than \$1,000 and no more than \$5,000 as imposed by the Director. Each day that a violation continues after notice has been served shall be deemed a separate offense. Any person who receives a citation for violating this chapter may appeal the violation to the Code Enforcement Board.

(B) Notwithstanding subsection (A) above, any person who violates any provision of this chapter or who knowingly provides false information in an attempt to gain or maintain a license, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$250 nor more than \$500 or imprisonment not to exceed 90 days, or both, for each offense. Any person cited hereunder for a failure to meet a requirement hereof may be cited again for said failure one or more days after a prior citation and in such case each citation may constitute a separate offense.

(C) In addition to the penalties provided herein, the Director is authorized to pursue remedial civil actions for violations of this chapter by civil complaint or petition for injunctive relief, declaration of rights or other appropriate proceedings filed in the Jefferson County, Kentucky Circuit Court.

Section 14: LMCO section _____ is hereby created to read as follows:

§ ___ Severability.

Each section and provision of this chapter is hereby declared to be independent sections and provisions and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of said chapter, or the application thereof to any person or business, is held to be invalid, the remaining sections or provisions and the application of such sections or provisions to any person or business other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid. Additionally, should any license or permit procedure in this chapter be deemed invalid, the substantive regulations, restrictions, and standards contained herein shall not be affected thereby.

Section 15: This Ordinance shall take effect 60 days after its passage and approval.

H. Stephen Ott Metro Council Clerk

David W. Tandy President of the Council

_____ Approved:

Greg Fischer Mayor

Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

By: _____

Public Dance Ordinance Draft 7 ROCsjm 4-3-15 O-066-15
Public Dance Ordinance Draft 8 ROC sjm,bkn 042315 066-15