

City of Philadelphia



(Bill No. 040871)

AN ORDINANCE

Amending Section 9-703 of The Philadelphia Code, entitled “Dance Halls,” by redefining the types of establishments and activities that require a license under that Section, and changing the name of the license to a "special assembly occupancy" license, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

Section 1. Section 9-703 of The Philadelphia Code is amended to read as follows:

§9-703 [Dance Halls] *Special Assembly Occupancies.*

(1) Definitions.

(a) ["Dance Hall"] “*Special Assembly Occupancy*” shall mean [any facility that the Philadelphia Building Code defines as a Use Group A-2 structure which shall include all buildings and places of assembly where the intended occupancy is for the gathering together of fifty (50) or more persons for dancing, regardless of whether dancing is the primary intended purpose of the building or place of assembly] *the following types of establishments, provided that 50 or more people congregate at such establishment primarily for social entertainment purposes at one or more times during the course of any year:*

(.1) nightclubs, discotheques and cabarets;

(.2) taverns and bars;

(.3) restaurants;

(.4) private clubs;

(.5) banquet halls; and

(.6) similar places of assembly without primarily fixed seating.

(b) “*Social entertainment purposes*” shall mean dancing, entertainment by live music or a disc jockey, observing a theatrical or other performance or similar activities. *The phrase shall not include the consumption of food and beverages, listening to a speaker or lecture, watching television, watching or*

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participating in athletic events, or other similar activities.

[(b)] (c) Teen event" shall mean any event or time for which the [dance hall] *special assembly occupancy* is open for use either overwhelmingly or exclusively by minors.

(2) Licenses.

(a) No person shall operate a [dance hall] *special assembly occupancy* without first obtaining a [dance hall] *special assembly occupancy* license from the Department.

(.1) The fee for a [dance hall] *special assembly occupancy* license shall be one hundred (100) dollars.

(.2) Within five (5) days of filing an application for a [dance hall] *special assembly occupancy* license, the applicant shall post a notice of application provided by the Department on the exterior of the proposed [dance hall] *special assembly occupancy* location for a period of thirty (30) days.

(.3) [Dance hall] *Special assembly occupancy* licenses shall be renewed every two years upon payment of the renewal fee of one hundred (100) dollars, subject to the conditions set forth in subsection (2)(b) herein.

(b) No [dance hall] *special assembly occupancy* license shall be issued or renewed by the Department unless the Department determines that:

(.1) The applicant has valid amusement and business privilege licenses.

(.2) No [dance hall] *special assembly occupancy* license has been denied or revoked for the proposed location within the preceding three (3) months.

(.3) The proposed location is in compliance with all relevant local and state laws, including zoning.

(.4) The proposed location is a safe and proper place for purposes of the [dance hall] *special assembly occupancy*. In making such determination, the Department shall consider:

(.a) The results of a safety inspection of the proposed location, including inspection relating to electrical wiring, lawful occupancy, fire safety and emergency exits.

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(b) The results of a criminal background check of the applicant and its principals.

(c) The suitability of the location, taking into consideration such factors as crime, traffic, litter, noise, parking and hours of operation. In making such suitability determination, the Department shall take into account community concerns, particularly those of neighbors in the immediate vicinity, as well as the views of the Police Department.

(.5) The applicant or licensee has filed all required returns and made payment of any monies due and owing as a result of all taxes imposed by the City or School District of Philadelphia or, if delinquent in the payment of taxes, interest or penalties, has entered into and is in compliance with a payment agreement with the Department of Revenue or the Law Department.

(.6) The applicant has received a certificate of occupancy.

(c) No [dance hall] *special assembly occupancy* license shall be renewed unless the [dance hall] *special assembly occupancy* has been inspected by the Department within the year prior to the renewal application.

(d) A [dance hall] *special assembly occupancy* license shall be revoked upon a finding of non-compliance with any provision(s) of this Section. A finding of one instance of non-compliance may be sufficient cause to revoke a [dance hall] *special assembly occupancy* license.

(3) Operation of [Dance Halls] *Special Assembly Occupancies*.

(a) It shall be the responsibility of every [dance hall] *special assembly occupancy* licensee as a condition to the receipt or retention of the [dance hall] *special assembly occupancy* license to insure that patrons do not congregate in a disorderly manner, and do not engage in any illegal activity, including non-compliance with §10-604 relating to alcoholic beverages in and around the immediate vicinity of the [dance hall] *special assembly occupancy*.

(b) No [dance hall] *special assembly occupancy* shall operate between the hours of 2:00 a.m. and 7:00 a.m. Notwithstanding the foregoing, special application may be made to the Department for permission for a [dance hall] *special assembly occupancy* to operate after-hours. The Department shall grant such permission only upon a showing of special circumstances, including, but not limited to, a showing that the proposed location and event are safe and proper for after-hours [dancing] *social entertainment*.

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(c) It shall be the responsibility of every [dance hall] *special assembly occupancy* licensee as a condition to the receipt or retention of the [dance hall] *special assembly occupancy* license to:

(.1) refrain, under color of such license, from selling, transferring, delivering or manufacturing, illegal drugs to any person, or alcoholic beverages to a minor, or engaging in acts of prostitution or promoting prostitution as defined at 18 Pa.C.S. §5902(a) and (b), or permitting a minor to remain upon the premises of said establishment in violation of Chapter 10-300 of The Philadelphia Code;

(.a) To ensure that no [dance hall] *special assembly occupancy* knowingly permits a minor to remain upon the premises of said establishment in violation of Chapter 10-300 of The Philadelphia Code, all [dance halls] *special assembly occupancies* shall conclude all teen events and take reasonable steps to vacate all minors from the premises no later than thirty (30) minutes prior to the time restrictions set forth in Chapter 10-300 of The Philadelphia Code.

(.2) refrain, under color of such license, from leasing real estate to a person knowing, or having reason to know, that such person is using, or intends to use, such real estate or improvements thereon in the selling, transferring, delivering or manufacturing of illegal drugs, or in the sale of alcoholic beverages to a minor, or to engage in acts of prostitution or promoting prostitution as defined at 18 Pa.C.S. §5902(a) and (b) or permitting a minor to remain upon the premises of said establishment in violation of Chapter 10-300 of The Philadelphia Code; and

(.3) refrain from causing or permitting a patron or employee to cause a public or private nuisance, either directly or indirectly, or by permitting third persons or conditions to do so, when such nuisances may be minimized or prevented by reasonable measures, regardless of whether the [dance hall] *special assembly occupancy* licensee was aware of such nuisance. A nuisance shall include the sale of illegal drugs or paraphernalia on or about the premises of the [dance hall] *special assembly occupancy*. As used in this subparagraph, a [dance hall] *special assembly occupancy* operator shall be conclusively deemed to have taken reasonable measures and therefore to have complied with its obligations under this subparagraph if it (i) has a reasonable policy to prevent nuisances such as the sale of illegal drugs, (ii) has an adequate security staff to enforce such a policy, and (iii) its security staff does in fact undertake good faith measures to enforce said policy.

(.4) prohibit the use of pyrotechnic devices, fireworks, explosives, or similar material as defined and regulated by the Philadelphia Fire Prevention Code within the [dance hall] *special assembly occupancy*. A [dance hall] *special assembly occupancy* operator shall inform all performance acts, in writing, that the use of the above mentioned devices are prohibited inside the [dance hall] *special assembly occupancy*, and take appropriate measures to enforce said policy.

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(d) The Department shall take all steps necessary to terminate the business operations of any [dance hall] *special assembly occupancy* that has violated any provisions of this subsection (3), including, but not limited to the following:

(.1) The seizure of the illegal drugs and/or drug paraphernalia located at such establishment, and the delivery of the material taken to appropriate law enforcement personnel for forfeiture proceedings pursuant to the provisions of the Act of June 30, 1988, P.L. 464, No. 79, §4, as amended, P.L. 1337, No. 154, §1; and,

(.2) padlocking and physical closure of the [dance hall] *special assembly occupancy*; and,

(.3) the initiation of proceedings to enjoin preliminarily and/or permanently the further operation of the [dance hall] *special assembly occupancy* which has violated or intends to violate such sub-sections.

(e) Any [dance hall] *special assembly occupancy* licensed under this Section who violates the provisions of this Section or whose agents or employees violate the provisions of this Section shall also be subject to immediate revocation of his or her amusement and business privilege licenses.

(4) Enforcement.

(a) All [dance halls] *special assembly occupancies* shall be subject to inspection by the Philadelphia Police Department or the Department of Licenses and Inspections at all reasonable times and whenever such place is open for business.

(b) The Police Department and the Department of Licenses and Inspections shall have the power to order a place vacated and/or closed in the event a [dance hall] *special assembly occupancy* is not in compliance with the terms of this Section.

(c) The Department shall promulgate such regulations as it deems proper to regulate the form and manner of issuing and revoking [dance hall] *special assembly occupancy* licenses and the imposition of sanctions set forth in this Chapter for operating without, or in violation of the conditions of, a valid license. Such regulations may provide for the imposition of sanctions on one or more of the premises operated under a particular license, depending on the breadth of occurrence of the violative behavior.

(5) Supersession. This Ordinance is intended to supersede Act 1919, May 16, P.L. 193, as amended, 53 P.S. Section 4731 to 4742, with respect to the regulation of [dance halls] *special assembly occupancies* and [dance] *social entertainment* events in

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the City of Philadelphia, and said Act shall no longer be applicable to the regulation of [dance halls] *special assembly occupancies* and [dance] *social entertainment* events in the City of Philadelphia.

Section 2. Effective Date. This Ordinance shall take effect immediately.

[Brackets] indicate matter deleted.
Italics Indicate matter added

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on December 9, 2004. The Bill was Signed by the Mayor on January 25, 2005.



Patricia Rafferty
Chief Clerk of the City Council