

ORDINANCE NO. 95- 6

AN ORDINANCE REGULATING ENTERTAINMENT CLUBS,  
IMPOSING PROVISIONS FOR OPERATING RULES AND REGULATIONS  
BY REQUIRING A LICENSE; ESTABLISHING APPLICATION PROCEDURES;  
SETTING FORTH GROUNDS FOR SUSPENSION OR REVOCATION OF  
LICENSES OR FOR INJUNCTIONS; ESTABLISHING PENALTY PROVISIONS  
WITH SEVERABILITY AND REPEALER CLAUSES; AND PROVIDING FOR AN  
EFFECTIVE DATE

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF RUSSELLVILLE,

THAT:

Section 1. DEFINITIONS. As used in this ordinance, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

Entertainment club: Commercial premises which are open to the public or to members of a group or club; the primary function of which is to offer patrons an opportunity to engage in social activities such as dancing, or the enjoyment of live or prerecorded music, or the enjoyment of entertainment provided by dancers or other performers. As an incidental function, an entertainment club may sell and serve food and beverages to its patrons.

The term "entertainment club" does not include the following: Premises which serve alcoholic beverages as defined by State law; theaters where the patrons sit in parallel rows of fixed seats; full service restaurants where the only entertainment consists of background music which is incidental to the primary function of serving food; outdoor performances; a banquet, party or celebration conducted for invited guests which is not open to the public or to members of a specific group or club; dances or events sponsored and operated by a governmental entity, an

educational institution, or nonprofit religious, charitable or benevolent organization.

**Club premises:** Any place where an entertainment club is operated or maintained, including all hallways, bathrooms, parking areas and other adjacent portions of the premises which are accessible to the public during operating hours.

**Teen club:** Any entertainment club which restricts its admissions to persons under the age of 18 years of age.

**Adult club:** Any entertainment club which restricts its admission to persons age 18 years or over.

**Person:** One or more natural persons, corporations, partnerships, associations, or other entities capable of having an action at law brought against such entity.

**Section 2. ENTERTAINMENT CLUB LICENSE REQUIRED.** It is unlawful for any person to own, lease, operate, manage or maintain an entertainment club in the City without first obtaining an entertainment club license from the City. For multiuse facilities which include an entertainment club, a separate and additional license must be issued for the entertainment club operation.

**Section 3. LICENSE APPLICATION PROCEDURES.** In addition to the application procedures referred to in Section 4 of this ordinance, an applicant for an entertainment club license shall provide the following:

A. A written statement setting forth all measures proposed to insure that adequate traffic control, crowd protection and security, both inside and outside the premises, will be maintained, and that the ages of patrons admitted to the entertainment club will be monitored.

B. A statement electing whether the entertainment club will be operated either exclusively as an adult club or a teen club, and a statement of the proposed schedule of operating hours and days.

C. A statement of whether the applicant, or the applicant's officers, directors, partners or any other person involved in the operation or management of the entertainment club has been convicted within the preceding five years of any crimes involving firearms, gambling, racketeering, controlled substances, sexual offenses, prostitution, assault, or contributing to the delinquency of a minor.

Section 4.       **PROCEDURES FOR ISSUANCE OR DENIAL OF LICENSE.** After receiving a complete application for an entertainment club license, as specified in Section 3 above, the City shall follow the following procedures:

A. The Mayor shall forward copies of the application to appropriate City officials for their comments regarding compliance with regulations under their jurisdiction. The Mayor shall consider all materials and comments submitted and shall issue or deny the license within ten working days after the date on which a completed application was filed unless the applicant agrees to an extension of the time period in writing.

B. An entertainment club license shall be denied by the Mayor for any one or more of the following grounds:

- (1) If the business premises do not comply with all applicable City ordinances and State laws,
- (2) If the application is incomplete or if it contains any material misrepresentation,

- (3) If the application does not show adequate measures for the protection of the public health, safety and welfare in terms of traffic control, crowd protection and security, both inside and outside the premises, and the monitoring of the ages of patrons admitted to the entertainment club.

C. If the Mayor denies a license, written notice of the denial stating the reasons why shall be sent to the applicant within one working day after the denial. The applicant shall have a period of ten working days after the date of license denial to appeal to the Circuit Court.

Section 5. OPERATING RULES AND REGULATIONS. The following operating rules and regulations shall apply to all entertainment clubs in the City:

A. The standards of conduct applicable to all businesses in the City shall apply to entertainment clubs.

B. Persons of the following ages shall not be permitted to enter or remain on the premises of a teen club:

- (1) under the age of 14 years unless accompanied by a parent or legal guardian.
- (2) 18 years of age or older except for bona fide employees or entertainers hired by the licensee to work in the club, or a parent or guardian of a person under 18 years of age present in the club.

C. No person under the age of 18 years shall be permitted to enter or remain on the premises of an adult club unless accompanied by a parent or legal guardian, except for entertainers hired by the licensee to work in the club.

D. Teen clubs shall be operated only on Friday and Saturday nights, and shall close at 1 A.M.

E. Adult clubs may operate any night of the week and shall close at 1 A.M.

F. It shall be the obligation of the licensee to employ an adequate number of qualified security personnel who will be present on club premises during all operating hours to maintain peace and order and to ensure compliance with all applicable laws of the State and of the City.

G. It shall be the obligation of the licensee to insure that no alcoholic beverages or controlled substances are offered for sale or consumed on the entertainment club premises.

H. It shall be the obligation of the licensee to remove from the club premises any person who is, or appears to be, under the influence of, or affected by the use of, alcohol or drugs, or whose conduct poses a physical danger to the safety of others present.

I. It shall be the obligation of the licensee to provide proper and adequate illumination of all portions of the club premises which are available for public use. Such illumination shall be not less than 10 foot-candles at floor level at all times when the premises are open to the public or when any member of the public is permitted to enter and remain on the premises.

J. It shall be the obligation of the licensee to prevent loitering, the creation of public nuisances or disturbances of the peace by any patrons of the entertainment club on club premises or in the immediate vicinity. "Loitering" shall not include walking between the club building and a patron's vehicle, nor shall it include the act of waiting in line to gain admission to the club.

K. It shall be the obligation of the licensee to clean up all litter resulting from club operations. The cleanup shall occur within eight hours after the end of each day's operation and shall extend for a two-block radius around the club.

**Section 6. RESTRICTIONS ON MULTIUSE FACILITIES.**

A. A teen club may only be located on the same premises with another licensed business if:

- (1) All businesses on the premises comply with the provisions of this ordinance relating to teen clubs; or
- (2) The teen club is physically segregated from the space used by the other businesses and has a separate entrance into the building which is exclusively for the use of its patrons; or
- (3) Only one business operates at a time on the premises, and the premises are closed altogether for not less than one hour between the close of one business operation and the opening of another.

**Section 7. ACCESS BY POLICE OFFICERS.** All police officers of the City and all other law enforcement officers of the Commonwealth of Kentucky or its agencies shall have free access to all entertainment clubs for the purpose of inspection and to enforce compliance with the provisions of this ordinance at all times that the premises are open to the patrons.

**Section 8. CHECKING THE AGE OF PATRONS.**

A. It is the responsibility of the licensee to require picture identification or a reasonable equivalent showing the age of each person admitted to an entertainment club. It is unlawful for any person to knowingly or recklessly allow a person to enter or remain on the premises of an entertainment club in violation of the age restrictions of this ordinance.

B. It is unlawful for any person to misrepresent his or her age for the purpose of obtaining admission to, or remaining at, an entertainment club in violation of the provisions of this ordinance.

**Section 9. SUSPENSION OR REVOCATION OF LICENSES.**

A. The Mayor may, at any time, suspend an entertainment club license whenever the licensee, or an manager, officer, director, agent, or employee of the licensee has caused, permitted or knowingly done any of the following:

- (1) Failed to keep the building structure or equipment of the licensed premises in compliance with the applicable health, building, fire or safety laws, regulations or

ordinances in a way which relates to or affects public health or safety on the entertainment club premises.

- (2) Failed to comply with the operating rules and regulations of entertainment clubs specified in Section 5 of this ordinance.

Such suspension shall remain in effect until the conditions causing the suspension are cured and reasonable measures are taken to ensure that the same will not of reoccur as determined by the Mayor.

B. The Mayor may, at any time, revoke an entertainment club license on any one or more of the following grounds:

- (1) Whenever the City learns that the licensee made a material false statement or representation, or failed to disclose any material information to the City, in connection with any application for the entertainment club license or any license renewal.
- (2) Whenever the licensee or any manager, officer, director, agent or employee of the licensee fails within a reasonable time to cure a condition that caused a license suspension.
- (3) Whenever the licensee or any manager, officer, director, agent or employee of the licensee knowingly permits conduct on the licensed premises that violates any federal, state or city criminal or penal stature, law or ordinance.
- (4) Whenever operation of the entertainment club becomes the proximate cause of a significant increase in criminal activity on the premises or in the immediate vicinity in such a way as to endanger persons or property.

C. The suspension or revocation of a license may be appealed within 10 days to the Circuit Court.

**Section 10. SEVERABILITY.** The provisions of this ordinance are severable. If any provision of this ordinance or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provisions or application.

Section 11. NUISANCE, INJUNCTION. Any violation of this ordinance is declared to be a nuisance. In addition to any other relief provided by this ordinance, the city attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this ordinance. The application for relief may include seeking a temporary restraining order, temporary injunction and permanent injunction.

Section 12. PENALTY. Any person, firm or corporation violating any provision of this ordinance shall be fined not less than fifty dollars nor more than five hundred dollars for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

Section 13. REPEALER. All portions of any section of any ordinance or rule or regulation in conflict herewith are hereby repealed to the extent of that conflict only.

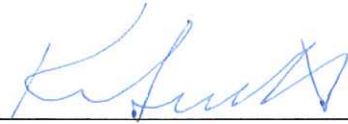
Section 14. EFFECTIVE DATE. This Ordinance shall be effective upon its passage and publication according to law.

FIRST READING CONDUCTED on May 2nd, 1995.

SECOND READING AND PASSAGE by roll call vote this 16th day of May, 1995.

AYES:	NAYES:	ABSTAINING:	ABSENT:
<u>Willie Hampton</u>	<u>None</u>	<u>None</u>	<u>None</u>
<u>Patricia Basham</u>	_____	_____	_____
<u>Howard Wren</u>	_____	_____	_____
<u>Russell Jones</u>	_____	_____	_____
<u>Jean Hankins</u>	_____	_____	_____
<u>Michael Baugh</u>	_____	_____	_____





KEN SMITH, MAYOR

ATTEST:



PEGGY JENKINS, CITY CLERK