

ORDINANCE 1361

AN ORDINANCE OF THE CITY OF PAYETTE, IDAHO, AMENDING CHAPTER 5.17 OF TITLE 5, ADDING NEW CHAPTER 5.18, DANCES, DANCE HALL LICENSES AND REGULATIONS; SETTING AN EFFECTIVE DATE; ALLOWING PUBLICATION IN SUMMARY FORM; ESTABLISHING SEVERABILITY; ESTABLISHING A REPEALER; ESTABLISHING A PENALTY.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF PAYETTE, IDAHO:

Section 1. Section 5.17.040 of Title 5, Chapter 5.17 of the Payette Municipal Code is hereby amended as follows:

Chapter 5.17
DANCES, CARNIVALS, PARADES AND OTHER ASSEMBLIES

5.17.040: LICENSE PERMIT FEES:

To engage in the following set out activities, a sponsor shall first obtain a special events permit and shall pay the applicable fee:

A. Circuses, carnivals, sideshows, and other similar exhibitions and shows;

B. Musical exhibitions and other exhibitions of art when a fee is charged;

C. Sports exhibitions when a fee is charged;

~~D. Dances, when a fee is collected from participants; excluding school sponsored dances;~~

~~D~~ E. Parades;

~~E~~ F. Any activity, entertainment, business, exhibition, show or assembly where an assembly of one hundred (100) or more people is attracted;

~~E~~ G. Unless a permit to extend an activity is obtained in advance from the city council, any sports exhibition, musical exhibition, dance, parade or other activity, entertainment, business, exhibition, show or assembly, the activity shall terminate on or before eleven o'clock (11:00) P.M. if that activity is located in a district which is zoned residential or which is across any street or alley from property which is in a residentially zoned district.

Section 2. A new Chapter 5.18 of Title 5, of the Payette Municipal Code is hereby created as follows:

5.18: LICENSE; DANCES, DANCE HALLS

5.18.010 Definitions

5.18.020 License Required- Fee - Display

5.18.030 Application

- 5.18.040 Determination of Completed Application
- 5.18.050 License - Exemptions
- 5.18.060 License - Process - Issuance - Denial
- 5.18.070 License - Suspension or Revocation
- 5.18.080 Right of Entry
- 5.18.090 Reasonable Lighting Required
- 5.18.100 Parking Lots - Lighting and Supervision
- 5.18.110 Location Restrictions

5.18.010. DEFINITIONS

As used in this chapter, the following words and terms shall be defined as follows:

(1) DANCE HALL means:

- (A) A place where dancing patrons or customers are permitted; or
- (B) A place where dance or any similar live performance is presented to the public.
- (C) A place, location, building, a part of a building, room or premises, located in an area where recreational or club use is allowed, where in consideration for payment of an admission fee or for other monetary or financial gain, persons are admitted for the purposes of a social gathering or some form of recreation, and music, whether live or recorded, vocal or instrumental, is played.
- (D) A dance hall is not considered a licensed establishment under chapters 5.04 or 5.08 of Title 5, of the Payette Code.

(2) CLASS A DANCE HALL means any place where dancing or entertainment is permitted three days or more a week

(3) CLASS B DANCE HALL means any place where dancing or entertainment is permitted less than three days a week.

(4) CLASS C DANCE HALL means any place where dancing or entertainment is scheduled one day at a time.

(5) CLASS D DANCE HALL means any place where dancing or entertainment is scheduled at any time and provides entertainment or social activities primarily to teenagers of the ages of fourteen (14) years old through twenty (20) years old.

(6) "Teen social club" is considered a CLASS D Dance Hall and shall mean any business establishment which advertises itself, holds itself out to the public as, or is operated primarily as

a "Teen Club", "Teen Dance Club", "All Ages Club" and/or any business establishment which provides entertainment or social activities primarily to teenagers of the ages of fourteen (14) years old through twenty (20) years old, regardless of whether such establishment is conducted, operated or maintained for a profit; "teen social club" does not include movie theaters, amusement parks or a sporting event or facility.

- (7) "Advertise" shall mean promotional signs on the premises, off-premise signs and any written, live, videotaped, audio taped or internet based promotional presentations for the business establishment which feature or promote the attendance of patrons.
- (8) "Licensed premises" shall include the building or facility in which the dance hall is located and any parking area provided by the establishment for its patrons.

5.18.020 License Required- Fee - Display

- A. No person shall open, conduct, stage, sponsor or operate a dance hall without first applying for and receiving an annual license from the city.
- B. The application shall be accompanied by a non-refundable application fee established by resolution of the city council.
- C. Such license shall be prominently displayed at all times upon the premises for which the license was issued.

5.18.030. Application

- A. Any person desiring to secure a license for the operation of a dance hall shall submit an application executed under penalty of perjury to the city. The application shall include the following:
1. If the applicant is:
 - (a) An individual, the individual shall state his legal name and any aliases and submit satisfactory proof that he is eighteen (18) years of age or older; if a foreign national, the individual shall submit satisfactory proof of legal status;
 - (b) A partnership, the partnership shall state its complete name and the names of all partners, whether the partnership is general or limited, and provide a copy of the partnership agreement, if any;

- (c) A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the statutes of the State of Idaho, or in the case of a foreign company, evidence that it is currently qualified to do business in the State of Idaho, the names and capacities of all officers, directors, and the name of the registered corporate agent and the address of the registered office for service of process;
- (d) A limited liability company, the company shall state its complete name, the date of its formation, evidence that the company is in good standing with the State of Idaho, or in the case of a foreign company, evidence that it is currently qualified to do business in the State of Idaho, and the name of the manager and registered agent and the address of the registered office for service of process.
2. Whether the applicant or any of the other individuals listed in the application or any manager has been arrested or convicted of any felony, any criminal act involving alcohol, narcotics, dangerous drugs or illegal drugs or any crime of moral turpitude and, if so, the nature of criminal act involved, the date and place of the arrest or the indictment and the disposition;
3. Whether the applicant or any individual listed in the application, any manager, agent or employee are sex offenders required to register as a sex offender in any state in the United States;
4. Whether the applicant or any of the other individuals listed in the application or any manager, agent or employee has previously operated or is currently operating or has been or is currently an officer, director, manager, partner, member, principal owner and/or employee of a legal entity which is operating or has operated an unlicensed dance hall and, if so, the name and location of the dance hall and whether such dance hall has ever been declared a public nuisance, as well as the date and jurisdiction wherein such declaration of a public nuisance was made;
5. Whether the applicant or any of the other individuals listed in the application or any manager, agent, employee, director or officer has previously operated or is currently operating or has been or is currently an officer, director, manager, partner, member, principal owner and/or employee

of any legal entity which has had a previous license under Title 5 or any other similar dance hall ordinance from another city or county denied, suspended, revoked, or declared a public nuisance, and, if so, the name and location of the dance hall for which such license was denied, suspended, revoked, or declared a public nuisance, as well as the date of such denial, suspension, revocation, or declaration of public nuisance. The suspension or cancelation of a liquor license shall be considered a similar business for the purposes of this section;

6. Whether the applicant or any of the other individuals required to be listed in the application or any manager holds any other licenses under this Chapter or other similar dance hall licenses from another city or county, and, if so, the names and locations of such other businesses;
7. The location of the proposed dance hall, including a legal description of the property, street address, and telephone number(s), if any;
8. Satisfactory proof of the applicant's ownership or right to possession of the premises wherein the dance hall will be operated. A written lease or a notarized letter written by the property owner setting out the applicant's legal right to possession and the owners approval of the use of the property as a dance hall;
9. If the building wherein the dance hall will be operated is in existence, complete plans and specifications for the interior of the building;
10. Provide evidence from the City Planning and Zoning Administrator that the proposed location of such business complies with the location requirements of the City zoning ordinance;
11. The applicant's mailing address and residential address;
12. The applicant's social security number, federally issued tax identification number and date of birth;
13. The name, residence and business address and telephone number of the owner of the premises;

14. The address and particular room or rooms for which the permit is required, the square foot area thereof to be used for dancing, the seating capacity, and a floor plan of seating areas and dance floor;
 15. An illustration of all fire exits, crash hardware on fire doors, fire or emergency evacuation plan;
 16. An illustration of the location of all fire extinguishers and any potential sources of fire ignition;
 17. The hours of operation; and
 18. Such other information as the city may require.
- B. Each application for a dance hall shall be verified by the oath or affirmation of the applicant or the applicant's authorized agent.

5.18.040 Determination of Completed Application

A. Not more than ten (10) days following submission of an application, the City Clerk shall review the application for completeness and conformance with the application requirements of Section 5.18.030. The City Clerk shall not accept for filing any application that is not complete in every detail. If an omission or error is discovered by the City Clerk, the application shall be rejected and returned to the applicant together with a written explanation of the omission or error without further action by the City. Any application rejected by the City due to an omission or error may be resubmitted to the City when the omission or error has been remedied. For the purposes of this Chapter, the date the City Clerk determines that an application is complete and in conformance with the application requirements of Section 5.18.030 in every detail, shall be the date the application is deemed filed with the City Clerk.

B. All applicants shall promptly notify the City in writing in the event that any information contained in an application has changed or any information is discovered by the applicant to be incorrect in any way from what is stated on the application, and every applicant shall have the continuing duty to promptly update and supplement such information during the term of any license issued to the applicant under this chapter. The failure to notify the City Clerk in accordance with this section within thirty (30) days from the date of such change or discovery, by supplementing or updating the application on file with the City Clerk, shall be grounds for

revocation of any application approval or, where a license has been issued, for the suspension or revocation of an issued dance club license.

5.18.050 License- Exemptions

Section 5.18.030 shall not apply to the following organizations or facilities:

A. The School District, schools, academies and other educational organizations, including the student body organizations thereof;

B. Events organized and operated by a charitable, civic, political, religious, fraternal, or other organization which is tax exempt pursuant to Section 501(c) of the Internal Revenue Code of 1986, as amended, which conduct dances on a nonprofit basis and limit attendance to members of such organizations, families or members, and bona fide guests, and which organizations have for their principal purpose of the betterment and advancement of their members otherwise than by the conducting of dances, and conducts such dances as merely incidental to its principal purpose and does not solicit or permit attendance by the general public;

C. Any liquor licensed premises;

D. The city and nonprofit civic organizations.

5.18.060 License- Process - Issuance - Denial

Upon the filing of an application for a dance hall license, the city shall cause an investigation to be made in order to ascertain what effect, if any, the issuance of such permit will have on the public peace, health, safety and general welfare of the city and its inhabitants.

The permit shall be approved, approved with conditions, or denied within thirty days after receiving such application. The application shall be denied for any of the following reasons:

A. The applicant or person to be in charge of the dance or the dance premises is found to be a person of bad moral character or reputation;

B. The applicant or person to be in charge of the dance or the dance premises has been convicted in a court of competent jurisdiction of:

1. An offense involving the presentation, exhibition, or performance of an obscene production, motion picture, play or act, or

2. An offense involving lewd conduct, or

3. An offense involving the use of force and violence upon the person of another, or

4. An offense involving misconduct with any person under the age of eighteen years, or

5. Use, sale or possession of narcotics or any controlled substance;

C. The premises are not suitable or proper for use as a public teenage dance hall;

D. There is a reason to believe that the location of the dance hall will create a public nuisance or disorder in the neighborhood, or the premises are not sufficiently soundproof so that nearby residents or patrons of nearby hotels or lodging houses will not be disturbed, or the floor area in which the dance will be conducted is not adequately lighted;

E. The applicant has knowingly made any false, misleading, incorrect, or fraudulent statement of facts in the license application, or any other document required by the city in conjunction with the application;

Any applicant person aggrieved by the act of the city in granting or denying a license under this chapter may appeal to the city council.

5.18.070 License- Suspension or Revocation

A. Upon investigation and evidence provided by City Officials including: Chief of Police, Fire Chief, Code Enforcement Officer, Building Official, state agency or other authorized employee, which determines that a violation of the provisions of this ordinance has occurred, the City Clerk may, in accordance with the provisions of this

Chapter, either suspend or revoke any license issued pursuant to this Chapter.

B. Additionally should the City Clerk find any of the following to have occurred, the City Clerk may suspend or revoke any license which has been issued pursuant to this chapter:

- (1) The licensed premises have been inactive for at least three (3) months;
- (2) In the case of a dance hall license approved for a facility which had, at the time of such approval, not been completed, such licensed premises has not been placed in operation within six (6) months of the license approval;
- (3) A criminal activity or incident has occurred upon the licensed premises;
- (4) That repeated disturbances of the public peace have occurred within the licensed establishment or upon any parking areas, sidewalks, alley ways or grounds adjacent to, or used by patrons of the licensed premises involving patrons, employees, or the holder of the license. For purposes of subsection (B)(4) of Section 5.18.070, "repeated disturbances of public peace" shall mean more than one disturbance requiring a response by the City Police Department in the preceding twelve (12) months.
- (5) The licensee, manager, or employee knowingly violated or knowingly allowed or permitted any violation of state, federal or local law, or any provision of this Chapter, within the licensed premises or upon any parking areas, sidewalks, alleyways or grounds immediately adjacent to the licensed premises.

5.18.080 Right of Entry

- A. The filing of an application for a dance hall license shall constitute consent by the licensee, his agents or employees, to permit the City Police Department, Fire Department or any other agent of the City to conduct routine inspections of the licensed premises during regular business hours.
- B. It shall be unlawful to hinder, prevent or refuse to permit any lawful inspection or investigation authorized under the terms of this Chapter.

5.18.090 Hours of Operation

A. Hours of operation for Class A, B and C Dance Halls shall be from 12:00 noon to 2:00 a.m.

B. Hours of operation for Class D Dance Halls shall be from 12:00 noon to 11:30 p.m.

C. At closing time for a Dance Hall, the patrons shall be removed from the premises and shall not be allowed to congregate, assemble or gather on the property, sidewalk or alley adjacent to or in the vicinity of the Dance Hall.

5.18.100 Reasonable lighting required

Whenever a dance hall is open or whenever a dance or any other function is in progress at any dance hall, all areas of the dance hall shall be lighted in such a manner as required by the building official.

5.18.110 Parking lots- Lighting and Supervision

All off-street parking facilities made available for the participants of a licensed dance hall shall be lighted and supervised as follows:

A. Lighting. Parking facilities shall be lighted in such a manner as to provide illumination to all vehicles sufficient to insure the safety of those persons using such facility and to permit supervision of the parking area.

B. Supervision. Parking facilities shall be supervised and inspected at reasonable intervals.

5.18.120 Re-admittance

No minor admitted to a Class D Dance Hall shall be permitted to leave and thereafter reenter the dancing premises during the duration of the dance, and no pass-out checks shall be issued. Nothing in this section shall prohibit participants in the dance from passing to and from a refreshment facility provided by the sponsoring organization where such facility is not located in the dancing area.

5.18.130 Use of Alcoholic Beverages or Illegal Use of Drugs Prohibited

A. Admission to a Class D Dance shall be denied to any person showing evidence, signs or symptoms of having consumed any alcoholic beverage, of being under the influence of or

possessing any alcoholic beverage or possessing, having consumed or being under the influence of any illegal or non prescribed controlled substance, or who has any alcoholic beverage or any illegal controlled substance on his or her person.

B. Catering Permits to serve alcoholic beverages will not be issued to any establishment licensed as a Class D Dance Hall at any time.

5.18.140 Participation of Adults Prohibited

A person twenty-one years of age or over shall not attend any Class D Dance Hall as a participant. This section does not prohibit the attendance of authorized chaperons or sponsors.

5.18.150 Loitering Prohibited

No person, having first been requested to leave by a chaperon or other person in charge shall remain or loiter in, around or about the premises at an establishment licensed as a Class D Dance Hall.

5.18.160 Location Restrictions

A. No part of a Class D Dance Hall under this chapter shall be located within three hundred feet (300') of the nearest property line of any property on which alcoholic beverages are served or sold.

B. No part of a premises licensed under this chapter shall be located within three hundred feet (300') of the parcel boundary of any church, public or private school grounds, or parcel zoned as residential. Said distance shall be computed by direct measurement from the nearest portion of the building in which the licensed premises is to be located to the nearest portion of the property boundary which the church, school or residential zone is located.

Section 3. This Ordinance may be published in summary form allowed by Idaho Code.

Section 4. This Ordinance shall be in full force and effect immediately upon passage and publication as required by the laws of the State of Idaho.

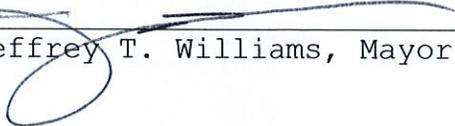
Section 5. Any ordinances or resolutions which are in conflict with this Ordinance are hereby repealed, but only insofar as the conflict exists.

Section 6. If any portion of this Ordinance should be found to be unconstitutional or unenforceable for any reason, the remainder of the Ordinance shall be applied to effectuate the purposes of this Ordinance.

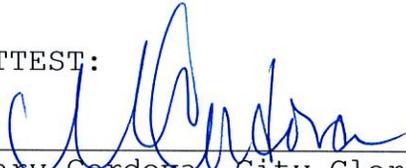
Section 7. Any violation of this ordinance shall be a misdemeanor punishable in accordance with the general misdemeanor statutes of the State of Idaho.

PASSED and APPROVED by the Mayor and City Council of the City of Payette, Idaho this 2nd day of April, 2012.

CITY OF PAYETTE, IDAHO

by 
Jeffrey T. Williams, Mayor

ATTEST:


Mary Cordova, City Clerk

SUMMARY OF ORDINANCE 1361

Ordinance 1361 is an ordinance of the City Of Payette, Idaho, adopted April 2, 2012. The ordinance may be descriptively known as the Payette City Dance Hall Ordinance. Ordinance 1361 amends chapter 5.17 of title and adds a new chapter 5.18 to the Payette Municipal Code. Chapter 5.17 is amended by striking subsection D and re-lettering the following lines. Section 5.18.010 creates definitions. Section 5.18.020 sets out licensing requirements, section 5.18.030 set out the application requirements, section 5.18.040 allows the City Clerk to determine when an application is completed. Section 5.18.050 of the ordinance sets out exemptions from the licensing requirements, section 5.18.060 sets out the licensing process for both issuance and denial. Section 5.18.070 provides for the suspension or revocation of a license and section 5.18.080 provides for a right of entry to allow inspections to ensure compliance. Section 5.18.090 requires reasonable lighting and section 5.18.100 sets out requirements for parking lots. Section 5.18.110 restricts locations. Ordinance 1361 provides a severability clause, provides for publication by summary, sets an effective date, provides a penalty and establishes a repealer.

I, Bert L. Osborn, City Attorney for the City of Payette Idaho, certify that I am familiar with Ordinance 1361 of the City of Payette, Idaho and with the foregoing summary. The summary is true and complete and provides adequate notice to the public. The full text is on file with the Payette City Clerk and shall promptly be made available to any citizen upon request.

Dated this 3rd day of April, 2012.



Bert L. Osborn