

Ordinance No. 00187

[\(Council Minutes 98/11/16\)](#)

ORDINANCE NO. 187

AN ORDINANCE of the City Council of the City of Lakewood, Washington, amending section 5.16.040 of the Lakewood Municipal Code relating to Adult Cabaret Licenses - Licensing Procedures

WHEREAS, following an extensive review of statutes, ordinances, case law and community related factors involving adult cabaret businesses in the City of Lakewood, the City of Lakewood Planning Advisory Board and its Adult Entertainment Task Force recommended certain changes to the City of Lakewood's Adult Entertainment Ordinance, changes were adopted by the City Council in Ordinance No. 171; and,

WHEREAS, a number of the provisions of the City of Lakewood Adult Entertainment Ordinance were patterned after the City of Bellevue Ordinance approved by the Washington State Supreme Court in Ino Ino, Inc. v. Bellevue, 132 Wn.2d 103, 937 P.2d 154 (1997), as that case gave the City significant guidance in the law and impermissible bounds of adult entertainment business regulations; and,

WHEREAS, some of the provisions of the Lakewood ordinance varied from the Bellevue ordinance where the City of Lakewood had circumstances or factors that seemed different than those addressed in the Bellevue ordinance, but for the most part, the City of Lakewood's ordinance was patterned that after the City of Bellevue; and,

WHEREAS, following the implementation of the provisions of Ordinance No. 171, it seemed as though the City's new licensing regulations could be streamlined a little, without adversely impacting the intended goals of the licensing program; and,

WHEREAS, the streamlining focused on the current provisions that provide for a temporary license applicants, which license would be replaced by a permanent annual license following a review period; and,

WHEREAS, in order to streamline the process that currently provides the business licensing staff to issue a second license and the entertainer to come back to City Hall to retrieve that permanent license following a review period, it was felt that by making the issuance of the license conditional during the review period, if there were bases for denial of the license, that could be accomplished during the conditional licensing period, but if no bases for denial existed, the previously issued conditional license could automatically convert to a permanent license for the year for which the license application was submitted, thereby saving City staff the task of preparing and processing the follow-up permanent license and relieving the adult entertainer licensee from having to come back to City Hall to retrieve the permanent annual license.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON, DO ORDAIN as Follows:

Section 1. That section 5.16.040 of the Lakewood Municipal Code be, and the same hereby is, amended to read as follows:

5.16.040 Application.

A. Adult Cabaret License.

1. All applications for an adult cabaret license shall be submitted to the City Manager or designee in the name of the person or entity proposing to conduct an adult cabaret on the business premises and shall be signed by such person and certified as true under penalty of perjury. All applications shall be submitted on a form supplied by the City, which shall require the following information:

a. For the applicant and for each applicant control person, provide: Names, any aliases or previous names, date and place of birth, driver's license number, if any, social security number if any, and business, mailing, and residential address, and business telephone number.

b. If a partnership, whether general or limited; and if a corporation, date and place of incorporation, evidence that it is in good

standing under the laws of Washington, and name and address of any registered agent for service of process.

c. Whether the applicant or any partner, corporate officer, or director of the applicant holds any other licenses under this Chapter or any license for similar adult entertainment or sexually oriented business, including motion picture theaters and panoramas, from the City or another city, county or state, and if so, the names and addresses of each other licensed business.

d. A summary of the business history of the applicant and applicant control persons in owning or operating the adult entertainment or other sexually oriented businesses, providing names, addresses and dates of operation for such businesses, and whether any business license or adult entertainment license has been revoked or suspended, and the reason therefor.

e. For the applicant and all applicant control persons, 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.

f. For the applicant and all applicant control persons, a description of business, occupation or employment history for the three years immediately preceding the date of the application.

g. Authorization for the City, its agents and employees to seek information to confirm any statements set forth in the application.

h. The location and doing-business-as name of the proposed adult cabaret, including a legal description of the property, street address, and telephone number, together with the name and address of each owner and lessee of the property.

i. Three (3) two-inch by two-inch color photographs each of the applicant and of applicant control persons, taken within six months of the date of application showing only the full face.

j. A complete set of fingerprints for the applicant and for each applicant control person, by employees of the department providing law enforcement services for the City of Lakewood.

k. A scale drawing or diagram showing the configuration of the premises for the proposed adult cabaret, including a statement of the total floor space occupied by the business, and marked dimensions of the interior of the premises. Performance areas, seating areas, manager's office and stations, restrooms and service areas shall be clearly marked on the drawing. An application for a license for an adult cabaret shall include building plans which demonstrate conformance with Section 5.16.050 of the City Code.

2. An application shall be deemed complete upon the applicant's provision of all information requested above, including identification of "none" where that is the correct response, and the applicant's verification that the application is complete. The City Manager or designee may request other information or clarification in addition to that provided in a complete application where necessary to determine compliance with this Chapter.

3. A non-refundable application fee must be paid at the time of filing an application in order to defray the costs of processing the application.

4. Each applicant shall verify, under penalty of perjury that the information contained in the application is true.

5. If any person or entity acquires, subsequent to the issuance of an adult cabaret license, a significant interest based on responsibility for management or operation of the licensed premises or the licensed business, notice of such acquisition shall be provided in writing to the City Manager or designee, no later than 21 calendar days following such acquisition. The notice required shall include the information required for the original adult cabaret license application.

6. The adult cabaret license, if granted, shall state on its face the name of the person or persons to whom it is issued, the expiration date, the name or names under which the business shall be done or by which the business shall be known and the address of the location of the licensed adult cabaret. The permit shall be posted in a conspicuous place at or near the entrance to the adult cabaret so that it can be easily read at any time the business is open.

7. No person granted an adult cabaret license pursuant to this Chapter shall operate the adult cabaret business under a name not specified on the license, nor shall any person operate an adult cabaret under any designation or at any location not specified on the license.

8. Upon receipt of the complete application and fee, the City Manager or designee shall provide copies to the police, fire, and community development departments for their investigation and review to determine compliance of the proposed adult cabaret with the laws and regulations which each department administers. Each department shall, within 30 calendar days of the date of such application, inspect the application and premises and shall make a written report to the City Manager or designee whether such application and premises comply with the laws administered by each department. No license may be issued

unless each department reports that the application and premises comply with the relevant laws. In the event the premises is not yet constructed, the departments shall base their recommendation as to premises compliance on their review of the drawings submitted in the application. Any adult cabaret license approved prior to premises construction shall contain a condition that the premises may not open for business until the premises have been inspected and determined to be in substantial conformance with the drawings submitted with the application. A department shall recommend denial of a license under this subsection if it finds that the proposed adult cabaret is not in conformance with the requirements of this Chapter or other law in effect in the City. A recommendation for denial shall cite the specific reason therefor, including applicable laws.

9. An adult cabaret license shall be issued by the City Manager or designee within thirty-five (35) calendar days of the date of filing a complete license application and fee, unless the City Manager or designee determines that the applicant has failed to meet any of the requirements of this Chapter or provide any information required under this subsection or that the applicant has made a false, misleading or fraudulent statement of material fact on the application for a license. The City Manager or designee shall grant an extension of time in which to provide all information required for a complete license application upon the request of the applicant. If the City Manager or designee finds that the applicant has failed to meet any of the requirements for issuance of an adult cabaret license, the City Manager or designee shall deny the application in writing and shall cite the specific reasons therefor, including applicable law. If the City Manager or designee fails to issue or deny the license within thirty-five (35) calendar days of the date of filing of a complete application and fee, the applicant shall be permitted, subject to all other applicable law, to operate the business for which the license was sought until notification by the City Manager or designee that the license has been denied, but in no event may the City Manager or designee extend the application review time for more than an additional 20 calendar days.

B. Adult Cabaret Manager and Entertainer Licenses.

1. No person shall work as a manager, assistant manager or entertainer at an adult cabaret without an entertainer's or manager's license from the City. Each applicant for a manager's or entertainer's license shall complete an application on forms provided by the City containing the information identified below. A nonrefundable application fee of \$100.00 shall accompany the application. A copy of the application shall be provided to the police department for its review, investigation and recommendation. All applications for a manager's or entertainer's license shall be signed by the applicant and certified to be true under penalty of perjury. The manager's or entertainer's license application shall require the following information:

a. The applicant's true name, home address, home telephone number, date and place of birth, fingerprints taken by employees of the department providing law enforcement services for the City of Lakewood, social security number, and any stage names or nicknames used in entertaining.

b. The name and address of each business at which the applicant intends to work.

c. Documentation that the applicant has attained the age of 18 years. Any two of the following shall be accepted as documentation of age:

i. A motor vehicle operator's license issued by any state bearing the applicant's photograph and date of birth;

ii. A state issued identification card bearing the applicant's photograph and date of birth;

iii. An official passport issued by the United States of America;

iv. An immigration card issued by the United States of America; or

v. Any other identification that the City determines to be acceptable.

d. A complete statement of all convictions of the applicant for any misdemeanor or felony violations in this or any other city, county, or state within five years immediately preceding the date of the application, except parking violations or minor traffic infractions.

e. A description of the applicant's principal activities or services to be rendered.

f. Three (3) two-inch by two-inch color photographs of applicant, taken within six months of the date of application showing only the full face.

g. Authorization for the City, its agents and employees to investigate and confirm any statements set forth in the application.

2. The City Manager or designee may request additional information or clarification when necessary to determine compliance with this Chapter.

3. An adult cabaret manager's or an adult entertainer's license shall be issued by the City Manager or designee within twenty-

one (21) calendar days from the date the complete application and fee are received, or the conditional license issued to an applicant for an adult entertainer's license shall automatically be converted to a permanent license for the year for which the application was submitted, as provided hereinbelow, unless the City Manager or designee determines that the applicant has failed to provide any information required to be supplied according to this Chapter, has made any false, misleading or fraudulent statement of material fact in the application, or has failed to meet any of the requirements for issuance of a license under this Chapter. If the City Manager or designee determines that the applicant has failed to qualify for the license applied for, the City Manager or designee shall deny the application in writing and shall cite the specific reasons therefor, including applicable laws. s license shall automatically be converted to a permanent license for the year for which the application was submitted, as provided hereinbelow, unless the City Manager or designee determines that the applicant has failed to provide any information required to be supplied according to this Chapter, has made any false, misleading or fraudulent statement of material fact in the application, or has failed to meet any of the requirements for issuance of a license under this Chapter. If the City Manager or designee determines that the applicant has failed to qualify for the license applied for, the City Manager or designee shall deny the application in writing and shall cite the specific reasons therefor, including applicable laws.

4. If the City Manager or designee has failed to approve or deny an application for an adult cabaret manager's license within twenty-one (21) calendar days of filing of a complete application, the applicant may, subject to all other applicable laws, commence work as an adult cabaret manager in a duly licensed adult cabaret until notified by the City Manager or designee that the license has been denied, but in no event may the City Manager or designee extend the application review time for more than an additional 20 calendar days.

If the City Manager or designee has failed to approve or deny an application for an adult cabaret manager's license within twenty-one (21) calendar days of filing of a complete application, the applicant may, subject to all other applicable laws, commence work as an adult cabaret manager in a duly licensed adult cabaret until notified by the City Manager or designee that the license has been denied, but in no event may the City Manager or designee extend the application review time for more than an additional 20 calendar days.

~~45. Upon receipt of a fully complete license application and fee, an applicant for an adult entertainer's license shall be issued a temporary conditional license upon receipt of a complete license application and fee. On the twenty-first (21st) day following the filing of the complete application and fee, or at the conclusion of the application review time period if extended by the City Manager or designee, said temporary conditional license will automatically expire convert to a permanent license for the calendar year for which the license application was submitted, unless, after review, the City Manager or designee has failed to approve or deny denied the license application, in which case the temporary license shall be valid until the City Manager or designee approves or denies the application, or Provided that, if the applicant appeals the denial of the license application, the conditional license shall remain valid until the final determination of any the appeal from a the denial of the application, as indicated by the final determination of such appeal. In no event may the City Manager or designee extend the application review time for more than an additional 20 calendar days. The temporary license must be surrendered by the applicant to the City before the City will issue a regular (non-temporary) license.~~

~~5. Upon receipt of a fully complete license application and fee, an applicant for an adult entertainer's license shall be issued a temporary conditional license upon receipt of a complete license application and fee. On the twenty-first (21st) day following the filing of the complete application and fee, or at the conclusion of the application review time period if extended by the City Manager or designee, said temporary conditional license will automatically expire convert to a permanent license for the calendar year for which the license application was submitted, unless, after review, the City Manager or designee has failed to approve or deny denied the license application, in which case the temporary license shall be valid until the City Manager or designee approves or denies the application, or Provided that, if the applicant appeals the denial of the license application, the conditional license shall remain valid until the final determination of any the appeal from a the denial of the application, as indicated by the final determination of such appeal. In no event may the City Manager or designee extend the application review time for more than an additional 20 calendar days. The temporary license must be surrendered by the applicant to the City before the City will issue a regular (non-temporary) license.~~(Ord. 171 ' 1 (part), 1998).

Section 2. Severability. If any portion of this Ordinance or its application to any person or circumstances is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances shall not be affected.

Section 3. Effective Date. That this Ordinance shall be in full force and effect five (5) days after publication of the Ordinance

Summary.

ADOPTED by the City Council this 16th day of November, 1998.

CITY OF LAKEWOOD

Bill Harrison, Mayor

Attest:

Alice M. Bush, CMC, City Clerk

Approved as to Form:

Daniel B. Heid, City Attorney

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