

CHAPTER 8 AMUSEMENTS

- Art. I. In General, §§ 8-1-8-15
- Art. II. Licenses, §§ 8-16-8-29
- Art. III. Pool and Billiards, §§ 8-30-8-42
- Art. IV. Public Dances, §§ 8-43-8-57
- Art. V. Mechanical and Other Amusement Devices, §§ 8-58-8-61

ARTICLE I. IN GENERAL

Sec. 8-1. Definitions.

The following terms, when used in this chapter, are defined and shall mean as follows:

Amusement park shall mean any place doing business as a public amusement park or recreation grounds and buildings for the general entertainment of the public for public dancing, music, swings, merry-go-rounds, other amusements, devices, games, sports, sales of lunches, soft drinks, cigars, and tobacco and any other lawful means of recreation and entertainment for the public.

Mechanical amusement device shall mean any machine containing no automatic pay-off device, which may, on insertion of a coin or slug, operate or be operated or used as a game, contest, music device or amusement of any kind or description, and which is so constructed that it may not be converted into an automatic pay-off device, for the return or discharge of money tokens, coins, checks or merchandise or which provides no such pay off by any means whatsoever, provided, however, that coin-operated radios used in private rooms of hotels, hospitals or other buildings shall not be termed a mechanical amusement device.

Other amusement devices shall mean nonmechanical amusement devices such as shuffleboard, miniature bowling alleys, or similar nonmechanical amusement devices.

Private dance shall mean any dance given at any home or held by a bona fide club, admission to which is granted to members and their invited guests only and from which the general public is excluded.

Public dance or *public hall* shall mean any dance or hall to which the public generally may gain admission or participate in dancing with the payment of a fee, directly or indirectly.

Public dance hall shall mean any room or place where a public dance is conducted.

Show or *exhibition* shall include, but shall not be limited to the following:

- (1) Rodeos;
 - (2) Wild West shows;
 - (3) Tent shows;
 - (4) Exhibitions for hire. (Gen. Code 1946, Ch. 8, §§ 203.1, 301.4; 401, 501.1, 501.4, 502.1; Code 1972, §§ 7.291, 7.301, 7.311)
- Cross reference-Definitions and rules of construction generally, § 1-2.

Sec. 8-2. Illegal occupations; responsibility for conduct on premises.

No person shall permit any illegal occupation or business, or any lewd, indecent or obscene conduct in or about any premises owned or occupied by him and used for any business or amusement to which the provisions of this chapter are applicable. (Gen. Code 1946, Ch. 8, § 101)

Sec. 8-3. Hours of operation-Generally.

Amusements licensed under this chapter shall not operate and shall be closed to the public between the hours of 2:00 a.m. and 7:00 a.m. and between the hours of 2:00 a.m. Sunday and 12:00 noon on Sunday. (Gen. Code 1946, Ch. 8, 201.2, 202.2, 204.2; Code 1972, 7.273, 7.277, 7.319)

Sec. 8-4. Same-Exception for special dances.

Notwithstanding the provisions of section 8-3, the city manager may, upon application to him, grant special permits in writing permitting any dance hall to remain open on special occasions until a later hour. "Special occasion," as used herein, shall mean any special dance being conducted by any association of persons at or during a convention being held within the city, or in celebration of any particular event of special significance to the public. The action of the city manager with respect to granting any special permit shall be final and conclusive; provided, however, the city clerk shall have authority to issue licenses for special dances upon payment of the sum of five dollars (\$5.00), but such licenses shall be issued for one night only. (Gen. Code 1946, Ch. 8, § 405; Code 1972, § 7.344)

Sees. 8-5-8-15. Reserved.

ARTICLE II. LICENSES•

Sec. 8-16. Required.

No person shall conduct, maintain or operate any place open to the public for the following amusements without obtaining a license under this article:

- (1) Amusement parks;
- (2) Bowling establishments;
- (3) Mechanical and other amusement devices;
- (4) Pool or billiard rooms;
- (5) Public dances;
- (6) Shooting galleries;
- (7) Shows and exhibitions. (Gen. Code 1946, Ch. 8, §§201.1, 202.2, 203.1, 204.1, 301.1, 402, 501.2, 502.2; Code 1972, §§ 7.272, 7.276, 7.292, 7.302, 7.311, 7.318, 7.321, 7.342)

Sec. 8-17. Certification by certain officials prerequisite to issuance.

No license shall be issued under this article except upon certification of the police chief, the fire chief and the health officer to the effect that the public peace, health and safety will not be jeopardized thereby. (Gen. Code 1946, Ch. 8, §§ 201.1, 202.1, 204.1, 301.3, 501.3, 502.3; Code 1972, §§ 7.272, 7.276, 7.293, 7.303, 7.318)

Sec. 8-18. Issuance for amusement parks optional; consent of nearby property owners required.

The issuance of a license for an amusement park shall be optional with the city commission and in no event shall any original license be issued if the location of the amusement park is within six hundred (600) feet of any property, the owners of which shall not consent in writing to the establishment of such amusement park. (Gen. Code 1946, Ch. 8, § 203.2; Code 1972, § 7.312)

Sec. 8-19. Application for mechanical amusement license Generally.

Any person desiring to procure a license hereunder shall file with the regulatory department a written application, for each of the said devices to be licensed, which application shall state, under oath, the full name and address of the licensee of said device, together with a full and complete description thereof and the place in the

City of Benton Harbor, along with the floor plan of the place or building where such device is to be kept and/or operated, and shall pay to the city's regulatory department, the license fee provided in Section 21-24 of this Code, which sum will be returned if said application be denied. Said application shall, in addition to the above, be approved by the director of public safety, and the building inspector of the City of Benton Harbor. (Code 1972, § 7.293; Ord. No. 522-83, § 7.293(1), 11-21-83)

Editor's note-Ord. No. 522-83, adopted Nov. 27, 1983, amended § 7.293 of the 1972 Code, which provisions had been incorporated through codification into § 8-17 hereof. At the discretion of the editor the provisions of Ord. No. 522-83, § 7.293(1) have been included herein as § 8-19.

Sec. 8-20. Same-Approval procedure.

(a) Final approval of all such license rest with either the city manager or the city commission: The city manager if the request is for three (3) or less machines; the city commission if the request is or more than three (3).

(b) The regulatory department shall request investigation and recommendations by the director of public safety and the building inspector for all applications. The regulatory department shall then submit the application together with the recommendations to the city manager who will either act upon the application or refer it to the city commission per subsection (a) above.

(c) If the application in question is for three (3) such devices or less and the combined total of all such machines in the establishment is three (3) or less, including this application, and positive recommendations by the director of public safety and building inspector is granted and the application is approved by the city manager, then the regulatory department shall issue the license without further action. If the city manager denies the application then the regulatory department shall notify the applicant that the application is denied and that he has twenty (20) days within which to request a review of this decision by the city commission.

(d) If the application in question is for more than three (3) video games or would cause the establishment in question to have a combined total of more than three (3) machines then the same procedure as subsection (c) above shall be followed except that the city manager shall refer the application directly to the city commission after he has acted upon it. If the applicant is not satisfied with commission action then he shall have twenty (20) days within which to request reconsideration by the city commission.

(e) If a written request for commission review pursuant to either subsection (c) or (d) above is filed then the applicant shall be entitled to an evidentiary hearing before the public safety committee prior to commission action.

(f) The city manager or the city commission may deny, revoke, or suspend a license,

application or renewal application for any one of the following reasons:

- (1) Lack of structural safety of the building to intended to house the games.
- (2) Violation of the zoning district in which said building is located.
- (3) The location and proximity of said building to churches, schools, and/or hospitals if that location is within three hundred (300) yards.
- (4) If the intended operation of the video games is in violation of any other city ordinance or state law.
- (5) If there are existing buildings, plumbing or other code violations which may effect the health, welfare or safety of patrons.
- (6) If the machines will create or contribute to the existence of a public nuisance at or near the location of said machines. (Ord. No. 527-84, § 7.294, 4-2-84)
Editor's note-Ord. No. 527-84, adopted April 2, 1984, enacted amendatory provisions to § 7.294 of the 1972 Code. The provisions of said Ord. No. 527-84 have been included herein at the discretion of the editor as § 8-20.

Secs. 8-21-8-29. Reserved.

ARTICLE III. POOL AND BILLIARDS

Sec. 8-30. Obstruction of public view.

No operator of a pool or billiard room shall permit on the licensed premises any obstruction of the public view by the use of drawn shades, blinds or screens, or by any other means either permanent or movable. (Gen. Code 1946, Ch. 8, § 201.3; Code 1972, § 7.274)

Sec. 8-31. Minors under seventeen prohibited; exception.

No person who is less than seventeen (17) years of age may remain or loiter in or about any pool or billiard room unless accompanied by a parent or guardian; nor shall the licensee thereof permit any such minor to remain or loiter thereon. (Gen. Code 1946, Ch. 8, § 201.4; Code 1972, § 7.275)

Cross reference-Minors generally, Ch. 23.

Secs. 8-32-8-42. Reserved.

ARTICLE IV. PUBLIC DANCES

Sec. 8-43. Classifications.

Public dance halls are classified as follows:

Class A dance hall shall mean any cabaret or nightclub as those terms are commonly and ordinarily known and shall include and mean any space or building open to the public, enclosed or unenclosed, where food or alcoholic liquors are served on the premises, including restaurants and cafes and where patrons are provided with a space for dancing or are permitted to dance, and shall include any dance hall so located and operated as to provide means for patrons to gain access or admission to any adjoining premises where alcoholic liquors are served.

Class B dance hall shall mean any bona fide nonprofit society, association of persons or group organized for civic, fraternal, social or charitable purposes which owns, rents or operates a place for the accommodation of its members when such place or any part thereof is used for dancing by members of such society, association or club.

All other public dance halls not defined and coming within the terms and provisions of this section shall be designated as *Class C dance halls*. (Gen. Code 1946, Ch. 8, § 401)

Sec. 8-44. Exemptions from article provisions.

The provisions of this article shall not apply to private dances given at private homes or to dances given or conducted by private clubs, societies, persons or corporations where the attendance is restricted to the members of such society, club or corporation and any bona fide invited guests, from which the general public is excluded. (Gen. Code 1946, Ch. 8, § 407)

Sec. 8-45. Zoning restrictions on certain dances.

No license to operate a Class A or Class C dance hall shall be issued unless the premises sought to be used for such purposes are in an area where such use is permitted under the zoning ordinance of the city. (Gen. Code 1946, Ch. 8, § 404; Code 1972, § 7.343)
Cross reference-Zoning, App. A.

Sec. 8-46. Security officers required.

A person obtaining a license for a Class B or Class C dance hall shall provide uniformed police or private security as authorized by the chief of police or his designee. Security shall consist of a minimum of two (2) authorized personnel.

Secs. 8-47-8-57. Reserved.

ARTICLE V. MECHANICAL AND OTHER AMUSEMENT DEVICES

Sec. 8-58. Operation of mechanical devices by minors prohibited; exception.

No person shall permit the operation of any mechanical amusement device by any minor, except when such minor is accompanied by his or her parent or legal guardian, provided that this section shall not prohibit the playing of musical devices such as jukeboxes. (Gen. Code 1946, Ch. 8, §501.7; Code 1972, § 7.296)

Sec. 8-59. Inducements to play prohibited.

It shall be unlawful for any person to directly, indirectly or otherwise, offer or give any prize, award, merchandise or anything of value, to any player, or to any operator of a mechanical amusement device or other amusement device, or to offer any inducement whatsoever tending to induce persons to make use thereof. (Gen. Code 1946, Ch. 8, §§ 501.8, 502.7; Code 1972, § 7.297)

Sec. 8-60. Automatic pay-off devices prohibited.

It shall be unlawful for any person to operate any mechanical amusement device or any slot machine, or other type of machine, containing any automatic pay-off device, or which shall be so constructed that the same may be converted into an automatic pay-off device, for the return or discharge of coins, tokens, slugs, merchandise or checks to operators thereof. (Gen. Code 1946, Ch. 8, § 501.9; Code 1972, § 7.297)

Sec. 8-61. Hours of operation, for mechanical amusement devices in establishment admitting minors.

For any license holder who admits or may admit minors to his establishment then no such license shall be granted for the operation of any said mechanical amusement device or amusement device other than mechanical during the normal school hours of 7:00a.m. to 3:00p.m. Should the normal school hours vary for any term or special event then seven (7) days written notice of change in hours of operation shall be given to any license holder. Upon said notice all license holders shall comply with the new hours of school operation. (Ord. No. 522-83, § 7.293(2), 11-21-83)
Editor's note-Ord. No. 522-83, adopted Nov. 27, 1983, amended* 7.293 of the 1972 Code which through codification had been incorporated into § 8-17 of the volume (Code). At the discretion of the editor, the provisions of said Ord. No. 522-83, * 7.293(2) have been included here in as* 8-61 to facilitate classification.

ARTICLE VI. NIGHTCLUBS

Sec. 8-62. Applicability and Intent

The intent of this ordinance is to promote public safety and welfare by regulating nightclub licensing, security, safety, unlawful activity and public peace. This ordinance shall apply to all nightclubs as defined in *Sec. 8-62(A)*; including existing nightclubs as well as any that make application subsequent to the adoption of this ordinance.

Sec. 8-63. Definitions

For purposes of this ordinance, the following definitions shall apply:

- A. ***Nightclub***: Any establishment, including but not limited to, lounges, bars, dance halls, community centers, recreation centers, convention centers, multi-purpose centers, private clubs, or any other establishment that allows for the assembly of the public and/or provides entertainment activities through any of, but not limited to, music and dancing.
- B. ***Nightclub Entertainment Promoter***: Any individual, partnership, corporation, or agent promoting any venue for the purpose of entertainment by contracting with a nightclub licensee not owned and operated by the promoter.
- C. ***Licensee***. An individual, partnership, or corporation that has been properly issued a license, to operate a nightclub within the corporate limits of the City of Benton Harbor.
- D. ***Regulating Authority***. An authorized city, county or state official charged with regulating the provisions of this ordinance, including but not limited to, police, fire, or inspections.
- E. ***Compliance Checks***. The system the city uses to investigate and ensure that those authorized to operate a nightclub are following and complying with the requirements of this ordinance.
- F. ***Bonded.***: An agreement under which a bonding or insurance company guarantees payment of a specified sum as damages, in the event one or more of the employees covered in the bond cause financial loss to the insured.
- G. ***Minor***: A person who is less than 21 years of age shall be considered a minor.

Sec. 8-64. Authority to issue city nightclub licenses.

An application for a city nightclub license under this Article shall be made to the Inspections Department on forms provided by the Inspections Department as more fully set forth in Sec 21-4.

Sec. 8-65. License.

- (a) No person shall operate a nightclub without first having obtained a license to do so from the City of Benton Harbor.
- (b) Licenses to operate nightclubs shall be renewed annually. They shall renew twelve months from the date of issue.

(c) In order to be approved for a city nightclub license under this Article, an applicant must meet all conditions set forth in this Article. Applicant must meet the following requirements:

1. The applicant must be at least 21 years of age.
2. The applicant has not had a nightclub license suspended or revoked within the preceding twelve months of the date of application.

Sec. 8-66. Revocation or suspension.

Any license issued under this ordinance may be revoked or suspended for cause as provided in Sec. 8-69 of this ordinance.

Sec. 8-67. Authority to deny issuance of licenses.

(a) The Inspections Department may deny an application for a license under this Article upon a determination that:

1. The applicant has failed to supply any of the information required on the application;
2. The applicant has provided false or inaccurate information on the application.
3. The applicant has failed to pay the required license fee;

(b) If the Inspections Department denies a license application under this section, the department shall notify the applicant in writing stating the specific grounds for the denial.

(c) The applicant shall have the right to a hearing before the City Manager on any such action of the city, provided a written request is filed with the City Manager within five (5) days after receipt of notice of such denial. The City Manager may confirm the denial or may order the Inspections Department to issue the applicant a nightclub license. The decision and disposition of the City Manager shall be reduced to writing and a copy of such decision shall be forthwith sent to the applicant. The action taken by the City Manager shall be final. Upon denial, the application fee shall be refunded to the applicant.

Sec. 8-68. Fees.

No license shall be issued under this ordinance until the appropriate license fee is paid in full. The fee for a license under this ordinance shall be as follows.

<i>Application</i>	<i>Fee</i>
New license	\$500.00
License renewal	\$250.00
Penalty fee for expired license	\$150.00
Duplicate license	\$50.00
Trade name/corporation name change	\$50.00

Sec. 8-69. Complaints, revocation and suspension of city license.

(a) The City Manager shall hear all violations and complaints against any licensee brought by a regulating authority. The City Manager shall have the authority for cause to suspend or revoke any city operating license of any licensee found to be in violation of this ordinance. The term "cause" shall have the same meaning ascribed to it in Sec. 21-23.

(b) The City Manager shall give written notice of hearing to the licensee at least ten (10) days in advance of the meeting. The licensee shall have the right to appear and give testimony at said meeting.

(c) Action by the City Manager shall be decided upon deliberation of all facts. The City Manager shall give written notice within (5) five business days of any proscribed action to be taken. If the City Manager determines that a violation of this ordinance did occur, that decision, along with the City Manager's reasons for finding a violation and the penalty to be imposed under this ordinance, shall be recorded in writing.

(d) The licensee shall be notified of said actions by mail sent to the address of the licensee. The licensee may appeal the decision of the City Manager to the City Commission by filing a written appeal with the City Clerk within five (5) days following the postmarked date on the notice from the City Manager.

(e) The city may suspend or revoke a license for any of the following reasons:

1. The licensee has fraudulently obtained the license by giving false information in the application therein;
2. The licensee has violated any of the provisions of this Article and/or and amendments thereto;
3. The licensee has violated laws governing the use of tobacco on the premise;
4. The licensee has violated laws relating to alcoholic liquors on the premise;
5. The nonpayment of any license renewal fees;
6. Permitting any gambling in or upon the licensee's place of business;
7. Permitting any drug use inside the establishment;

(f) Any license that is suspended or revoke must be immediately confiscated by the Inspections Department for the duration of the suspension.

(g) The decision and disposition of the City Manager shall be reduced to writing and the dates of any suspension or revocation shall be stated therein. Said noticed shall be sent to the licensee in writing.

(h) The licensee shall have the right to appeal before the city commission on any such action of the City Manager, provided a written request is filed with the City Clerk within five (5) days after receipt of notice of such suspension or revocation. The commission may confirm such suspension or revocation or may reinstate such license. The decision and disposition of the city commission shall be reduced to writing and a copy of such decision shall be forthwith sent to the

licensee. The action taken by the city commission shall be final. Any subsequent violations committed by the licensee shall be adjudicated in the same manner. Upon suspension or revocation of any license or permit, the fee shall not be refunded.

Sec. 8-70. Security

Nightclubs shall provide a minimum of one bonded private security guard for every (75) seventy-five occupants present in the nightclub, plus a minimum of two bonded private security guards in each parking lot. At least two private security guards shall remain on site for at least one hour after the establishment closes to ensure that no loitering, littering or other unlawful activities occur.

All private security guards shall be bonded and wear uniform or a visible ID card, which identifies them as being private security guards. All security services and private security guards shall comply with city, state and federal regulations.

Sec. 8-71. Age Restrictions

Anyone entering a nightclub must be at least (21) twenty-one years of age. The nightclub licensee shall be responsible for verifying the age of all occupants entering the premise.

Sec. 8-72. Location and Hours of Operation

The location requirements for nightclubs shall be in accordance with the City Zoning Ordinance. Legally existing nightclubs that are in violation of the location restrictions at the time of adoption of this ordinance may continue, but if closed for any reason, may not reopen in the same location.

Sec. 8-73. Hours of operation

Shall be regulated by *Chapter 8, Article I, Sec. 8-3-5 of the Code of Ordinances*. No nightclub shall operate past the hour of 2:00am. All members of the public must be totally vacated from the premises no later than 2:30 a.m.

Sec. 8-74. Noise

Nightclubs shall be subject to all noise ordinances in accordance with the Code of Ordinances, *Chapter 26 Article V*.

Sec. 8-75. Dangerous Weapons

Nightclub licensee(s) shall be responsible to ensure that no guns, knives, or any other dangerous weapons are brought into the nightclub except by a bonded security guards duly licensed and authorized to carry said weapons. Hand wand metal detectors shall be utilized on all persons entering the club.

Sec. 8-76. Illegal Drugs, Smoking or Alcohol Use

(a) Nightclub licensee(s) shall be responsible to ensure no patrons engage in the use of illegal drugs within the establishment, or outside on the property grounds. In the event that the use of illegal drugs has been detected by the club licensee or club staff, the police must be notified immediately. Wanton disregard by the club licensee of open drug use will result in revocation of the nightclub operating license.

(b) Smoking inside of a nightclub is prohibited by local, state.

(c) Any nightclub not possessing a valid liquor license assigned by the Michigan Liquor Control Commission, but allows the consumption of alcohol on premise, may result in the revocation of the city nightclub operating license.

Sec. 8-77. Overcrowding

(a) Every nightclub shall post an occupancy load certificate as required by the currently adopted building code of the City of Benton Harbor. The building official and/or fire official may also require a seating, dining or other layout of the floor area to be posted along with the occupancy load certificate as provided for in the building code.

(b) Occupancy loads shall be calculated based on requirements of the currently adopted building code and fire code. Existing nightclubs with approved occupancy loads in excess of current code allowances shall be brought into compliance with current code requirements within one year from the date of adoption of this ordinance. Those nightclubs that do not comply with current code requirements within one year will have their occupancy loads reduced to reflect current code compliance.

(c) If occupancy loads are recalculated for any reason, such as the closure and reopening of an existing nightclub, the occupant load shall be calculated based on current code requirements.

(d) Nightclub licensees shall be responsible for ensuring that the number of occupants in the nightclub does not exceed the approved occupant load. Repeated violations of the occupancy load may result in the suspension or revocation of the nightclub license.

(e) Nightclub licensees shall be responsible for maintaining all required exits and exit pathways. Exits and exit pathways shall not be blocked. Exit doors shall be equipped with appropriate exit hardware as required by the building code and shall not be locked from the interior.

Sec. 8-78. Parking and Parking Lots

Nightclubs shall provide one approved parking space for every two and half occupants allowed by the occupant load certificate.

Existing nightclubs in violation of this article at the time of adoption shall comply within one calendar year from adoption of this ordinance. Those nightclubs that do not comply shall be subject to a reduction in the approved occupancy load as provided for in *Sec. 8-77(b)* of this

ordinance.

Parking layouts and parking lots are subject to the provisions of the currently adopted Zoning Ordinance, and other regulations for parking. Parking lots shall be well lit and shall not contain dark spots or other security risks.

Licensees shall ensure that all vehicles are parked only in approved designated parking spaces. Nothing shall interfere with ingress and egress of emergency vehicles. Licensees shall ensure that patrons and/or employees do not park in the street, on lawns, or in fire lanes. Parking lot security shall be provided in accordance with *Sec. 8-65* of this ordinance.

Sec. 8-79. Loitering, Littering and Nuisance Activity

(a) Nightclub licensees shall be responsible for prohibiting loitering outside the nightclub and/or at nearby properties at any time by the nightclubs patrons in accordance with *Chapter 26, Article III, Sec. 26-51* of the City Code of Ordinances. Any loiters or other unlawful activity must be reported to the police department immediately. Failure to do so may result in penalties as outlined in *Sec. 8-84* of this ordinance.

(b) Nightclub licensees shall remove all litter from the nightclub site and from nearby properties by no later than 7:30AM the following morning. Nightclub licensees shall be responsible for obtaining permission from property licensees to enter the property and remove said litter.

(c) Nightclub licensees shall be responsible for ensuring that patrons do not create a nuisance to nearby property licensees and/or residential areas by littering, loitering, vandalizing, making loud noise or other violations of public peace. Nearby property licensees aggrieved by the activities of a nightclub or its patrons may file a written complaint with the police department, fully describing the nature of the nuisance. Repeated complaints shall result in a revocation or suspension of the establishment's operating license.

(d) The police department shall issue citations to the nightclub licensees citing this article as the violation. Both the nightclub licensee and the complainant shall appear in municipal court to present testimony to the municipal court judge. The judge shall render a verdict after hearing testimony of both parties. If found guilty, the nightclub licensee shall be subject to fines and/or imprisonment as required by law for misdemeanor offenses and shall be subject to suspension or revocation of license as provided for in *Sec. 8-64, item 2* of this ordinance.

Sec. 8-80. Compliance checks and inspections.

All licensed premises shall be open to inspection by the local law enforcement or other authorized official at any time.

Sec. 8-81. Obstructing compliance Investigators

Licensees shall not fail to cooperate, or obstruct any investigator who is investigating or inspecting the licensed premises for code compliance. Any obstruction of justice will result in an immediate suspension, and possible revocation of the city license.

Sec. 8-82. Promotions and Special Events

Nightclub licensees shall be responsible for all activities that occur while the nightclub is in the control of, leased to or otherwise contracted with an individual, entity, or nightclub entertainment promoter, as defined in *Sec. 8-62* of this ordinance.

Sec. 8-83. Violations and Penalties

A violation of any provision of this ordinance shall be a misdemeanor. Each violation shall subject the defendant to a minimum fine of not less than five hundred dollars (\$500), and/or not more than ninety days in jail or both. Additionally, any operating license issued by the City may be suspended or revoked under *Sec.8-69*.

Sec. 8-84. Severability

If any term or other provision of this ordinance is determined to be invalid, illegal or incapable of being enforced by any rule or law, or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect.

If the final judgment of such court or arbitrator declares that any term or provision hereof is invalid, void or unenforceable, the parties agree to reduce the scope, duration, area or applicability of the term or provision, to delete specific words or phrases, or to replace any invalid, void or unenforceable term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the original intention of the invalid or unenforceable term or provision.

Sec. 8-85. Effective date.

This ordinance shall take effect immediately upon approval of the Emergency Manager and officially published in the local newspaper. Existing businesses affected by this ordinance shall have 60 days to comply with all licensing provisions set forth in this Article.