

ORDINANCE TO REPEAL IN ITS ENTIRETY ARTICLE 8, CHAPTER 30-8-13 OF THE LAND DEVELOPMENT ORDINANCE: ENTERTAINMENT FACILITY USE STANDARDS AND REPEAL IN ITS ENTIRETY, REWRITE, AND ENACT CHAPTER 18, ARTICLE VI OF THE GREENSBORO CODE OF ORDINANCES: NIGHT CLUB SECURITY ORDINANCE

WHEREAS, the City Council finds and declares that criminal acts of violence have repeatedly occurred at night clubs, dance clubs, after-hours clubs, promoted events, sexually oriented live entertainment businesses, restaurants and bars operating as night clubs, and teen clubs; and

WHEREAS, such occurrences constitute a detriment, danger and hazard to the health, safety, morals, general welfare, peace, and dignity of the inhabitants of the city; and

WHEREAS, this condition requires the enactment of regulations which impose minimum security requirements upon night clubs in order to prevent or reduce the occurrence of future acts of violence; and

WHEREAS, North Carolina General Statute §160A-181 enables the City of Greensboro to regulate places of amusement and entertainment, including night clubs, and any regulations of night clubs shall be consistent with any permits or licenses issued by the North Carolina Alcoholic Beverage Control Commission; and

WHEREAS, the City of Greensboro intends to regulate night clubs to ensure the safety and security of the public in a manner wholly consistent with any permits or licenses issued by the North Carolina Alcoholic Beverage Control Commission; and

WHEREAS, North Carolina General Statute §160A-181.1 enables the City of Greensboro to regulate sexually oriented businesses in order to prevent or ameliorate their adverse secondary impacts; and

WHEREAS, the City of Greensboro intends to regulate sexually oriented businesses through an appropriate local ordinance to ensure the safety and security of the public in accordance with §160A-181.1(c); and

WHEREAS, on December 2, 2014, City Council passed the Entertainment Facility Security Ordinance requiring night clubs to hire trained security staff; and

WHEREAS, the City of Greensboro conducted public hearings on January 7, 2015 and January 14, 2015 to gather input from various stakeholders concerning the December 2, 2014 Entertainment Facility Security Ordinance; and

WHEREAS, in response to the public hearings, City Council modified several aspects of the December 2, 2014 Entertainment Facility Security Ordinance and directed staff to revise the ordinance accordingly; and

WHEREAS, the Night Club Security Ordinance serves a legitimate governmental purpose in promoting the safety of club patrons and crime prevention; and

WHEREAS, the Night Club Security Ordinance requires minimum security measures that are generally recognized as best practices in the entertainment industry and can be adopted without unduly burdening the businesses subject to these regulations.

NOW, THEREFORE, BE IT RESOLVED THAT, the City of Greensboro, enabled by the State of North Carolina through North Carolina General Statute §160A-181 and §160A-181.1, does hereby repeal Article 8, Chapter 30-8-13: Entertainment Facility Use Standards of the Land Development Ordinance and repeal in its entirety, rewrite, and enact Chapter 18 Article VI of the Greensboro Code of Ordinances: Night Club Security Ordinance.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

Section 1. Article 8, Chapter 30-8-13 of the Greensboro Code of Ordinances is hereby repealed in its entirety.

Section 2. Chapter 18, Article VI of the Greensboro Code of Ordinances is hereby repealed in its entirety, rewritten, and enacted to read as follows:

ARTICLE VI. NIGHT CLUB SECURITY ORDINANCE

Sec. 18-71. Purpose.

The city council finds and declares that acts of violence have repeatedly occurred at night clubs, dance clubs, after-hours clubs, sexually oriented live entertainment businesses, promoted events, teen clubs, and at restaurants and bars that operate as night clubs, and such occurrences constitute a detriment, danger and hazard to the health, safety, morals, general welfare, peace, and dignity of the inhabitants of the city. These violent incidents have occurred inside and outside businesses where patrons are gathered, waiting in line, entering, or exiting, or in adjoining parking areas owned, leased, operated, rented, or otherwise provided by such businesses. This condition requires the enactment of regulations which impose security requirements upon night clubs and sexually oriented businesses in order to prevent or reduce the occurrence of future violent incidents.

Sec. 18-72. Definitions.

- (a) "Night Clubs" shall mean and refer to commercial establishments whose principal use is to provide amplified music or amplified entertainment for dancing, musical entertainment, or other similar types of performances or activities, which admit the general public with or without membership after 10 o'clock p.m. Admission to a night club may, but need not, take place by payment of a direct or indirect charge, fee, donation, or any form of consideration, or by the purchase, possession, or presentation of a ticket or token. A night club may also be known as a discothèque (disco) or a dance hall, and is an entertainment venue which usually operates late

into the night. A night club may have live music and is generally distinguished from bars, pubs or taverns by the inclusion of a dance floor or a DJ booth, where a DJ plays recorded music, or a stage for live entertainment where persons can stand or dance. For purposes of this ordinance, where the term “night club” is used, the term shall be construed to include dance clubs, after-hours clubs, promoted events, teen clubs, and those restaurants, bars, pubs, taverns, cocktail lounges or other establishments operating as night clubs by meeting the requirements of this definition. For purposes of this ordinance, the definition of “night club” as defined herein shall supersede any other definitions found in Greensboro’s ordinances.

- (b) “Sexually Oriented Live Entertainment Business” shall mean and refer to a Sexually Oriented Cabaret, defined in Section 30-15-18 of the Greensboro Land Development Ordinance as: A commercial establishment that regularly features, exhibits or displays: A. Persons who appear nude or who displays specified anatomical areas; B. Live performances which are characterized by the exposure of specified anatomical areas and/or by simulated specified sexual activities. For purposes of this ordinance, where the term “night club” is used, the term shall be construed to include sexually oriented live entertainment businesses.
- (c) “Small Capacity Club” shall mean and refer to a night club with a rated occupancy capacity of 1 to 298 persons.
- (d) “High Capacity Club” shall mean and refer to a night club with a rated occupancy capacity of 299 or more persons.
- (e) “After-Hours Club” shall mean and refer to a commercial establishment that provides amplified music or amplified entertainment, which is open to the general public at or after 2:30 a.m., with or without membership, used for dancing, musical entertainment, or other similar types of performances and activities.
- (f) “Promoted Event” shall mean and refer to a public event where amplified music or amplified entertainment is provided by a person or entity renting or using a premises which meets the definition of a night club herein.
- (g) “Teen Club” shall mean and refer to a commercial establishment that provides amplified music or amplified entertainment, with or without membership, where the principal use is for dancing, musical entertainment, or other similar types of performances and activities for persons under 21 years of age.
- (h) “Amplified Entertainment” shall mean and refer to any type of music or other entertainment delivered through and by an electronic system where dancing, musical entertainment, or other similar types of performances and activities occur. Televisions operating with no amplification other than their internal speakers and background music systems operated at a low volume and not intended for entertainment shall not be deemed amplified entertainment.
- (i) “Background Music or Sound” shall mean and refer to amplified music or amplified sound that is played within a structure and cannot be heard or felt outside the structure and that is played at low volume such that a person speaking in a normal tone of voice can be heard clearly over this

sound by another person standing at least thirty-six inches (36") away. Background music or sound shall not register higher than 80dB(c).

- (j) "Unarmed Security Guard" shall mean and refer to a security guard who has completed a training course as an unarmed security guard as set forth in North Carolina General Statute Chapter 74C. Unarmed security guards shall complete an initial training course and an annual online renewal course. This ordinance requires completion of a training course and does not require a formal certification. Unarmed security guards may, but need not be, formally certified by the North Carolina Private Protective Services Board.
- (k) "Armed Security Guard" shall mean and refer to a security guard who has received training and completed the certification requirements for an armed security guard pursuant to the requirements of North Carolina General Statute 74C-13, *et. seq.*, or shall hold a valid and current certification as a law enforcement officer issued by either North Carolina Sheriffs' Education and Training Standards Commission or the North Carolina Criminal Justice Education & Training Standards Commission.
- (l) "Night Club Permit" shall mean and refer to a permit to operate a night club that provides amplified music or amplified entertainment. This permit system shall be overseen by the Chief of Police or his designee. Permit holders shall be required to maintain full compliance with the terms of this ordinance and with the Greensboro Police Department Security Manual.
- (m) "GPD Security Manual" shall mean and refer to the Greensboro Police Department Security Manual. This Security Manual shall be maintained and overseen by the Chief of Police or his designee. This Security Manual shall describe practices and safety protocols for all night clubs.
- (n) "Safe Operation" shall mean and refer to a night club that has operated for a period of eighteen (18) continuous months, during which time the night club has had zero (0) violent incidents.
- (o) "Violent Incident" shall mean and refer to any violent act: 1) resulting in injury to a person which requires the victim to receive transportation and/or treatment at a medical facility; or 2) resulting in the death of a person; or 3) involving a sexual assault or robbery. A violent incident shall include incidents that occur inside the facility, on the premises, or in the immediate vicinity of the premises where patrons are gathered, waiting in line, entering, exiting, or in the adjacent parking areas if such parking areas are owned, leased, operated, rented or otherwise provided by the night club. Upon the violent incident, as determined by the Greensboro Police Department in coordination with the Office of the City Attorney, a night club shall cease to be a safe operation and shall comply with enhanced security requirements as defined herein.
- (p) "Minimum Security Requirements" shall mean and refer to the basic security requirements for all night clubs that are safe operations.
- (q) "Enhanced Security Requirements" shall mean and refer to additional security requirements for a night club that has experienced a violent incident and has ceased being a safe operation.
- (r) "Board of Adjustment" shall mean and refer to the quasi-judicial body that shall hear appeals

regarding the ordinance set forth herein.

- (s) The Chief of Police or his designee shall make the final determination as to whether an entertainment facility qualifies as a night club that is subject to this ordinance.

Sec. 18-73. Night Club Permit

- (a) Each business operating as a night club shall obtain a Night Club Permit from the City of Greensboro by submitting an application to the Tax Collector. The Tax Collector is located at 300 West Washington Street, Greensboro, NC 27402.
- (b) Upon determination of eligibility by the Chief of Police and the payment of a twenty-five dollar (\$25.00) annual nonrefundable application processing fee, the business shall be issued a permit. The twenty-five dollar (\$25.00) non refundable application processing fee is intended to defray the cost of administration of this ordinance. The permit shall be valid for one fiscal year and shall be renewed each year at a cost of twenty-five dollars (\$25.00). A Night Club Permit shall be effective on the day it is issued and shall expire on June 30 of the city's fiscal year. A permit issued for each subsequent fiscal year shall be effective on July 1 and shall expire on June 30 of the city's fiscal year. Any permit that begins after the expiration of eight (8) months of the current license year shall be required to pay one-half the prescribed processing fee.
- (c) Permit holders shall be required to maintain full compliance with the terms of this ordinance and with the GPD Security Manual. Permit holders shall grant the City of Greensboro the right to enter and inspect their business during normal business hours.
- (d) All applicants for a permit under this ordinance shall disclose the name(s) of all persons, members, partners, directors, managers, or other owner(s) and persons responsible for the operation of the night club. The Chief of Police shall review the application to determine whether the applicant is subject to this ordinance. The purpose of this section is to prohibit the formation of a new entity or relocation of an existing entity to evade the enhanced security requirements under this ordinance. The Chief of Police is authorized to deny issuance of a permit to any applicant who appears to constitute substantially the same ownership and/or management as a night club previously permitted under this ordinance and subject to enhanced security requirements.
- (e) Upon receiving a completed, signed application and payment in full of the application processing fee, the Chief of Police or his designee shall investigate the information contained in the application to verify its accuracy and the applicant's eligibility for a Night Club Permit.

Sec. 18-74. Investigation, Minimum Standards for Approval of Night Club Permit.

- (a) Within a reasonable time not to exceed 30 days after receipt of a completed, signed application for a Night Club Permit, the additional application requirements, and all application fees, the Chief of Police or his designee shall complete the required investigation, ensure the business is in compliance with all zoning regulations, and shall approve or deny the permit.

(b) If the Chief of Police recommends denial of issuing a permit, the applicant shall be informed of writing of the denial and the reasons on which the denial is based.

(c) The Chief of Police will deny the application for any of the following reasons:

1. The applicant or any individual identified in the application is under 18 years of age;
2. The application is incomplete, unsigned or the application or renewal fee has not been paid;
3. The applicant or any individual identified in the application refused to allow an inspection of the premises;
4. The applicant or any individual identified in the application has overdue permit fees or civil penalties issued by the City of Greensboro associated with the operation of a night club;
5. The applicant or any individual identified in the application has an ownership interest in, or is a managing agent, of any other entertainment facility at which the Night Club Permit has been revoked during the previous eighteen (18) months;
6. The applicant failed to provide information with regard to the identity of employees who are responsible for managing or supervising the business operating the night club;

Sec. 18-75. General Security Requirements for All Night Clubs.

From the date this ordinance is adopted, all night clubs shall be deemed safe operations. As safe operations, all night clubs shall comply with the minimum security requirements outlined in this ordinance and in the GPD Security Manual. The security requirements outlined in this ordinance are base-line requirements. The GPD Security Manual contains both base-line requirements and detailed requirements. All night clubs shall be required to comply with the GPD Security Manual. In the event of conflict between this ordinance and the GPD Security Manual, the GPD Security Manual shall control.

Sec. 18-76. Minimum Security Requirements for All Night Clubs that are Safe Operations.

- (a) Clubs shall have functioning video cameras covering entrances and exits. Recorded footage shall be retained for fourteen (14) days.
- (b) Clubs shall hire one security person on site for every two hundred (200) patrons in attendance up through four hundred (400) patrons in attendance, and then one additional security person for every one hundred (100) patrons in attendance. As a safe operation, the business may choose to hire either unarmed or armed security staff. The unarmed or armed security staff shall have completed a training course pursuant to NCGS Chapter 74C. The required number of security staff is depicted in the table below:

Minimum Security:

Patrons in Attendance	Minimum Security Staff: (Business may choose either Armed or Unarmed)
1-200	1
201-298	2
299-400	4
401-500	5
501-600	6
601-700	7
701-800	8
801-900	9
901-1000	10
1000+	11

Sec. 18-77. Enhanced Security Requirements for Clubs that Cease to be a Safe Operation.

- (a) Clubs that cease to be a safe operation because of a violent incident shall comply with enhanced security requirements defined herein, in addition to minimum security requirements. The occurrence of a violent incident shall be determined by the Greensboro Police Department in coordination with the Office of the City Attorney.
- (b) Enhanced Security requirements means the club shall 1) hire armed security guard(s) as depicted in the table below; 2) shall have armed security guard(s) on duty Thursday through Saturday nights and on special events or holidays as listed in the GPD Security Manual; 3) shall use fixed or hand-held metal detectors to check all patrons; and 4) shall maintain a daily roster of patrons who are allowed admission into the facility. This roster shall be subject to disclosure to the Greensboro Police Department pursuant to a search warrant issued by a court of competent jurisdiction.
- (c) These enhanced security requirements shall continue for a period of eighteen (18) months following the final determination that the club is not a safe operation. After eighteen (18) months

during which time there have been no additional violent incidents, the club shall revert to a safe operation subject to the minimum security requirements.

Enhanced Security:

Patrons in Attendance	Armed Security Staff In addition to Minimum Security Requirements
1-200	1 Armed + Metal Detector + Roster
201-298	1 Armed + Metal Detector + Roster
299-400	2 Armed + Metal Detector + Roster
401-500	2 Armed + Metal Detector + Roster
501-600	2 Armed + Metal Detector + Roster
601-700	2 Armed + Metal Detector + Roster
701-800	2 Armed + Metal Detector + Roster
801-900	2 Armed + Metal Detector + Roster
901-1000	2 Armed + Metal Detector + Roster
1000+	2 Armed + Metal Detector + Roster

Sec. 18-78. Responsible Parties.

The owner(s) and manager(s) of a night club are jointly responsible for compliance with this Article without regard to assignment or sub-lease of the premises to any other person or entity for any entertainment. If the use of a night club is assigned or sub-leased to another person or entity, the assignee or sub-tenant (which may be referred to as a “promoter”) shall be jointly responsible with the owner(s) and manager(s) for compliance with this Article.

Sec. 18-79. Exemptions.

(a) The following uses and activities are exempt from the provisions of this article:

1. Uses, activities and facilities owned or operated by any Federal, State, County, or local government agency or government-sponsored entity or events issued a special use permit by these entities.
2. Uses, activities and facilities owned or operated by any private educational institution or religious institution.
3. Facilities operated by an organization designated as a non-profit entity under section 501(c) of the Internal Revenue Code.
4. Arts and craft shows; athletic fields and athletic events; community festivals; carnivals, fairs or circuses; conventions, exhibitions, trade shows; religious events and assemblies, parades.

5. Night clubs that have a security plan that meets or exceeds the purpose of ensuring safety and security as set forth herein and can demonstrate having a continuous five (5) year period with no violent incidents.

(b) A determination of exemption shall be made by the Chief of Police.

(c) Appeals to a determination of exemption shall be made to the Board of Adjustment.

Sec. 18-80. Standard of Proof.

In determining any civil violation of this ordinance, the occurrence of any act of violence or other fact need only be proved to a preponderance of the evidence.

Sec. 18-81. – Violations and Enforcement.

- (a) It is a violation of this Article for an owner, manager, assignee and/or sub-tenant of an entertainment facility to fail to comply with the ordinance set forth herein.
- (b) Failure to comply with the ordinance set forth herein may result in the assessment of civil penalties. Any person who violates any provision of this ordinance may be subject to assessment of a civil penalty in the amount of \$50.00 for the first violation, \$100.00 for the second violation, \$200.00 for the third violation, and \$500.00 for the fourth and each succeeding violation. The assessment of civil penalties in accordance with this ordinance is not intended to be an exercise of powers delegated to other agencies or entities created by the General Assembly to regulate the proscribed conduct. Appeals to the assessment of civil penalties shall be heard by the Board of Adjustment. A violation of this ordinance shall not constitute a misdemeanor or infraction punishable under G.S. § 14-4, but instead shall be subject to the civil penalties fixed by this subsection and the civil remedies provided by G.S. § 160A-175. Any properly designated city official is authorized to take legal action in the nature of a civil suit for the collection of a debt when the civil penalty, including the delinquent civil penalty, has not been paid.
- (c) Failure to comply with the ordinance set forth herein may result in the Chief of Police revoking the Night Club Permit, pending an appeal and decision by the Board of Adjustment, until such time as the night club complies with this ordinance or ceases to operate as a night club. If the Night Club Permit is revoked, the permit holder shall cease to operate as a night club.
- (d) Violations of this ordinance may be declared a public nuisance. The City may abate nuisances occurring under this Article by seeking abatement, injunction, or other equitable remedies which may be imposed by a court of competent jurisdiction as allowed in G.S. § 160A-175.
- (e) Equitable remedies sought by the City may include:
 1. Ordering the entertainment facility to cease all business at the location where the nuisance occurred until compliance with this ordinance is achieved or the establishment ceases to operate as a night club; or
 2. Ordering the entertainment facility to cease operation as a night club; or

3. Requiring additional security measures including identification scanners other physical changes which reduce the danger of future acts of violence.
- (f) Clubs with continued incidents of violence and probable cause arrests will be subject to City action in conformity with Chapter 19 of the North Carolina General Statutes.
- (g) Notices of violations or revocations of permits issued pursuant to this ordinance may be served to permit holders personally, by registered or certified mail, or by regular mail. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected. A person who cannot with due diligence be served by personal delivery or registered or certified mail may be served by publication in the manner provided for service in G.S. §160A-455(a1) or in G.S. 1A-1, Rule 4(j1) of the North Carolina Rules of Civil Procedure. When service is made by publication, a notice of the violation and subsequent proceedings or actions taken by the City shall be posted in a conspicuous place on the premises affected. All notices and other papers served subsequent to a notice of violation or revocation of permit may be served in accordance with G.S. 1A-1, Rule 5(b) of the North Carolina Rules of Civil Procedure.

Sec. 18-82. – Appeals.

- (a) All appeals regarding the ordinance set forth herein shall be heard by the Board of Adjustment. All appeals shall be heard and decided within forty-five (45) days from the date the appeal is filed.
- (b) Appeals to decisions of the Board of Adjustment shall be to Superior Court in the nature of certiorari.
- (c) All appeals shall be filed with the Director of Planning within 10 days of service of a notice of a violation or revocation of permit. The Director of Planning is located at 300 West Washington Street, Greensboro, NC 27402.
- (d) An appeal shall stay the enforcement of this Article, except where injunctive relief issued from a court of competent jurisdiction may require enforcement during an appeal.

Sec. 18-83. – Severability.

If any section, phrase, sentence or portion of this ordinance is held void, invalid, unconstitutional or unenforceable for any reason by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision; and such holding shall not affect the validity of the remaining portions thereof.

Section 3. All night clubs shall apply for a Night Club Permit within 30 days after this Article shall become effective. Night Clubs shall be required to comply with the security requirements of this Article within 60 days of adoption.

Section 4. That all ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.