

BOROUGH OF RIVERDALE

ORDINANCE NO. 11 - 2009

ORDINANCE AMENDING CHAPTER 75 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF RIVERDALE ENTITLED "AMUSEMENTS AND ENTERTAINMENT"

BE IT ORDAINED by the Mayor and Council of the Borough of Riverdale, in the County of Morris and State of New Jersey, as follows:

Section 1. Chapter 75 of the Revised General Ordinances of the Borough of Riverdale entitled "Amusements and Entertainment," shall be amended to read in its entirety as follows:

Chapter 75

Amusements and Entertainment

§ 75-1. License required where alcoholic beverages are served.

It shall be unlawful for any person, partnership or corporation occupying any building, buildings or parts of buildings in which alcoholic beverages are served pursuant to a consumption license to furnish in or on those premises occupied by the aforesaid establishments entertainment of any kind or nature, whether or not an admission charge, cover fee or minimum is charged, without first obtaining a license therefore from the Borough Council. The license shall be required whether the entertainment is to be performed on a one-time, sporadic or regular basis. It is the obligation of the person, partnership, corporation or entity operating the establishment to obtain this entertainment license. It shall be the obligation of both the owner and/or lessee of the premises to obtain a permit prior to the opening of any such facility and to comply with any conditions placed upon the licensed premises..

§ 75-2. Application for license.

- A. Any person desiring a license under this chapter shall file with the Borough Clerk an original application under oath, in writing, on a form furnished by the Borough Clerk.
- B. The application shall set forth the following information:
 - (1) The applicant's name, business name and business address.
 - (2) Whether the applicant is an individual, a partnership, a corporation or another entity and, if another entity, a full explanation and description thereof.
 - (3) If the applicant is an individual, the applicant's residence address

- (4) If the applicant is a partnership, the full names, residence addresses, of each partner.
 - (5) If the applicant is a corporation or other entity:
 - (a) In the case of a corporation, the full names, residence addresses, of each major officer and each stockholder, the name and address of the registered agent and the address of the principal office. The term "stockholder," as used herein, means and includes any person owning or having an interest, either legal or equitable, in 10% or more of the stock issued and outstanding of the applicant corporation.
 - (b) In the case of another entity, the full names, residence addresses, of each person owning or having an interest, either legal or equitable, aggregating in value 10% or more of the total capital of said entity, the name and address of the registered agent, if any, and the address of the principal office.
 - (6) The number of plenary retail consumption licenses held by the applicant, if any.
 - (7) A specific description of the nature and type of entertainment to be provided on the licensed premises.
 - (8) If the premises are not owned by the applicant, the consent of the owner of the premises for the filing of the application.
- C. Upon receipt of such application, the Borough Clerk shall submit the same to the Police Department, the Zoning Officer and the Health Department for reports with reference to the compliance or noncompliance with municipal and state rules, regulations, statutes and ordinances and the truth of the matters contained in the application.
- D. Upon receipt of such application and reports, the Borough Clerk shall submit the same to the Borough Council for its consent and approval.
- E. The Borough Council shall consent to and approve the issuance of such permit, unless it reasonably finds that applicant's character and business responsibility are not satisfactory; that a violation of municipal or state rules, regulations, statutes and ordinances exists; that untrue matters are contained in the application for the license; that the issuance of the license will tend to create a nuisance; or that the issuance of such license will adversely affect the good government, order and protection of persons and property and the preservation of the health, safety and welfare of the Borough of Riverdale and its inhabitants.
- F. The Borough Council shall determine that the applicant's character and business responsibility are satisfactory, unless the application, the reports of the various departments or other evidence presented shall tangibly disclose any of the following:
- (1) Conviction of a crime involving moral turpitude or offenses of public indecency.
 - (2) Prior violations of statutes ordinances or regulations relevant to the furnishing of entertainment.
 - (3) Prior violations of ABC regulations, N.J.A.C. 13:2-23.5, 13:2-23.6, 13:2-23.7 or

13:2-23.14, if applicant holds a plenary license.

- (4) Conviction for a crime of disorderly persons offense involving gambling.
- (5) Concrete evidence of bad character.
- (6) Grounds similar to those listed above which would reasonably cause the Borough Council to determine that the character and business responsibility of the applicant or any partner, officer or stockholder thereof is not satisfactory.

G. Upon the consenting approval of the Borough Council of the issuance of a license, the Borough Clerk shall issue the same; subject, however, to such appropriate conditions and safeguards, if any, consistent with the intent and purpose of and reasonably necessary to accomplish the objectives of this chapter and the statutory authority for the same as may be imposed by the governing body.

§ 75-3. Exemptions.

Any function by a charitable organization hosting an event is exempt from the licensing requirement herein imposed.

§ 75-4. Security personnel on premises.

Where an admission fee is charged for persons to enter into the premises, the owner or occupant of the premises shall have on duty a person skilled in maintaining security, peace and good order on the premises and in the area immediately surrounding the premises whenever the number of persons exceeds 75, and the person shall not be employed in any other capacity on the premises. The person so employed shall first be approved by the Chief of Police and such approval shall not be unreasonably withheld.

§ 75-5. Prohibited acts.

- A. It shall be unlawful for any person licensed under the provisions of this chapter to permit on the premises any entertainment, amplified by a mechanical device, of such intensity so as to be plainly audible outside the boundary lines of the property.
- B. It shall be unlawful for any person licensed under the provisions of this chapter to permit any disorderly, noisy, riotous, or tumultuous conduct within the licensed premises or areas surrounding the licensed premises.
- C. It shall be unlawful for the owner, proprietor, manager or person in charge of any place licensed under the provisions of this chapter to refuse admission to any peace officer charged with the duty of enforcing this chapter. The officers shall have free access at all times to any premises licensed under the provisions of this chapter

§ 75-6. Revocation of permit; notice; hearing.

- A. An entertainment license may be revoked or suspended in the event that any businesses are operated in a manner which substantially impairs public safety to

their customers or to the general public. As a specific standard, the following activities shall be deemed to be injurious to the public health and therefore prohibited: loud and abusive noises coming from customers or business invitees; loud gatherings within and upon the business premises; boisterous activities within and upon the business premises or areas surrounding the premises; loud, unruly and profane language; public drunkenness; minors consuming alcoholic beverages; overcrowding upon the business premises or near the business premises due to activity upon the business premises; use of fireworks; public urination; excessive noise as defined in the following subsections; and any other disorderly acts which disturb the peace and good order of the neighborhood and community. As a further specific standard, any creating of loud or unnecessary noise shall be prohibited upon the business premises or near the business premises due to activity on the business premises. The making, creating or permitting of any unreasonably loud, disturbing or unnecessary noise in the borough is hereby prohibited.

- B. The making, creating or permitting of any noise of such character, intensity or duration as to be detrimental to the life, health or welfare of any individual or which either steadily or intermittently annoys, disturbs, injures or endangers the comfort, repose, peace or safety of any individual is hereby prohibited.
- C. Notice of the Borough Council's intention to suspend or revoke such permit shall be served upon the permit holder by certified mail. There shall be included in or attached to such notice a statement of the facts upon which such suspension or revocation will be based. The holder of the permit shall be entitled to a hearing before the Council. Whenever any license shall be suspended or revoked, no refund of any unearned portion of the fee shall be made and at least six months from the time of such suspension or revocation shall elapse before another license shall be issued for the same premises. If the license of any premises be twice suspended or revoked within a period of one year, a new license shall not be issued to such place for a period of at least one year from the date of the second suspension or revocation.

§ 75-7. License fee; duration of license.

- A. The fee for the entertainment license shall be .10 per square foot of area in the licensed premises per year or any part thereof. The fee shall accompany the application for the license.
- B. All licenses shall be valid for one year, commencing on January 1 of each year.

§ 75-8. Penalties and Violations

Any person, firm, or corporation, including both a property owner and/or lessee, violating any of the provisions of this Chapter shall be subject to such penalties as are provided for in Chapter 162 of the Revised General Ordinances of the Borough of Riverdale.

Section 2. If any section or provision of this Ordinance shall be held invalid in any Court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

Section 3. All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 4. This Ordinance shall take effect immediately after final passage and publication in the manner provided by law.

Adopted this ____ day of _____, 2009.

Carol Talerico, Borough Clerk

William Budesheim, Mayor

CLERK'S CERTIFICATION

NOTICE is hereby given that the above Ordinance was introduced and passed first reading by title at a regular meeting of the Mayor and Council of the Borough of Riverdale, held on August 17, 2009, and it will be considered for final passage at a regular meeting of said Mayor and Council to be held on September 9, 2009, at 7:30 p.m. or as soon thereafter same can be considered, in the Municipal Building, 91 Newark Pompton Turnpike, Riverdale, New Jersey, at which time and place all persons interested therein or affected thereby will be given an opportunity to be heard concerning same. During the week prior and up to the time of public hearing, copies of said Ordinance will be available to the members of the general public who request same, in the Borough Clerk's Office between the hours of 9:00 a.m. and 4:30 p.m.

Carol J. Talerico, R.M.C.
Municipal Clerk