

THE CITY OF CRANSTON

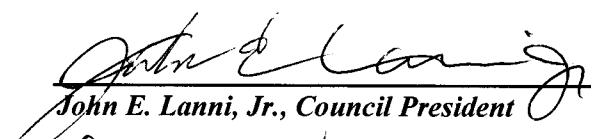
ORDINANCE OF THE CITY COUNCIL

IN AMENDMENT OF TITLE 5.64 OF THE CODE OF THE CITY OF CRANSTON,
2005, ENTITLED "THEATRICAL PERFORMANCES, SHOWS AND EXHIBITIONS"
(Public Entertainment)

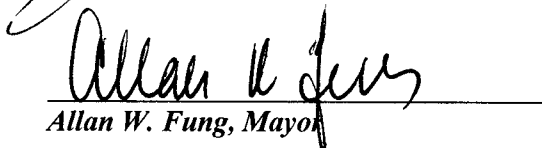
No. 2013-34

*As amended in Committee 9/9/2013

Passed: September 23, 2013


John E. Lanni, Jr., Council President

Approved: September 24, 2013


Allan W. Fung, Mayor*It is ordained by the City Council of the City of Cranston as follows:*

Section 1. Title 5, Chapter 64, entitled "Theatrical Performances, Shows and Exhibitions" is hereby amended as follows:

5-64-060 - Live Entertainment Permits and Regulations.

5-64-061 Definitions. The following definitions shall be for purposes of this Chapter only, unless specifically adopted by another section of the Cranston Municipal Code for use therein. (a) Ambient music. Prerecorded music which is audible from a distance of no more than ~~*ten (10)~~ ***twenty (20)** feet from any portion of the exterior of the premises;

(b) Chief of Police. Shall include employee(s) of the Police Department designated by the Chief of Police to act on his or her behalf;

(c) Establishment(s). Any area ***including those establishments with the capacity of under 100** within the limits of the City of Cranston to which the public may be invited and where alcoholic beverages are served and entertainment is provided;

(d) Entertainment. An event or series of events, or activities or business, occurring alone or as part of another business, to which the public is invited to watch, listen, or participate, (including dancing) or is conducted for the purposes of holding the attention of, gaining the attention of or diverting or amusing guests or patrons, including, but not limited to: live music, recorded music played by a disc jockey (DJ) or other performance which is knowingly permitted by the establishment and attended by members of the public and whether said activities are compensated by the establishment.

(e) Dance or Dancing. Movement of the human body accompanied by music or rhythm.

(f) Land Use Approval. Includes conditional use permit(s), or any other land use discretionary permit.

43 **5-64-062 Entertainment permit required.**

44 No person shall provide or allow any type of entertainment at an establishment without
45 an Entertainment Permit issued by the City Clerk as hereinafter provided.

46 **5-64-063 Entertainment permit—Application and Renewal.**

47 Applicants for Entertainment Permit(s) must be at least the age of 21 and shall first
48 complete a written, signed and acknowledged under penalty of perjury application providing the
49 following applicable or additional information as determined by the Chief of Police:

50 (a) A state driver license or identification card number of the applicant in the event any
51 other names, including aliases are used by the applicant, additional information regarding
52 identity may be required. The applicant shall also provide his or her permanent address;

53 (b) The address as well as days and specific hours of operation and entertainment and
54 where the entertainment is proposed;

55 (c) The full name(s) including aliases of the person or persons having the management or
56 supervision of applicant's business;

57 (d) A statement describing the applicant's business and the proposed entertainment;

58 (e) Criminal records (including misdemeanors) of management or supervisory personnel
59 of applicant's business;

60 (f) Information identifying person(s) managing or supervising applicant's business
61 including name, address, and date of birth.

62 (g) A floor plan and site plan showing the building interior and grounds, including
63 specific area(s) where entertainment will take place, parking spaces, queuing area if applicable
64 and the dimension of each portion;

65 (h) A copy of any other licenses, permits, or entitlements (including conditions of
66 approval) issued to the applicant;

67 (i) A copy of any building or property lease or contract for the address for which the
68 entertainment will take place;

69 (j) The name and address of the owner and lessor of the real property upon which the
70 business is to be conducted;

71 (k) The address to which the Entertainment Permit and any legal notice is to be mailed;

72 (l) A statement under oath that the applicant has read and understands the provisions of
73 this chapter;

74 **5-64-064 Zoning and Land Use Laws.**

75 Prior to applying for Zoning or Land Use Approval (if so required) the applicant will first
76 apply to the City Clerk for an Entertainment Permit. The City Clerk will receive the application,

forward same to the Fire Department, Police Department and to the Building Official, and make tentative written findings for approval or denial and conditions of permit approval as set forth herein within 30 calendar days of receipt of a complete application. Upon receipt of tentative findings and conditions of permit approval from the City Clerk, the applicant may apply for Zoning or Land Use Approval and may present the tentative findings and conditions of permit approval to the applicable Zoning or Land Use Approval body as evidence of tentative approval by the Police Department. If the Zoning or Land Use Approval is granted, the entertainment permit may be ~~*automatically approved and subsequently issued by the Safety Services Committee~~ for one year unless at any time prior to final approval of an entertainment permit, additional facts are discovered; the permit will not be automatically approved and the Safety Services Committee may impose additional conditions or deny the permit as provided herein.

If the land use approval is denied the tentative findings and conditions of permit approval shall become void and without any legal effect. This additional process will not be applicable to permit renewals.

5-64-065 Permit Application and Renewal fee.

A separate fee shall be paid at the time of filing of each application for a permit. The fee shall be set by resolution of the City Council.

5-64-066 Permit Approval and Renewal. In order to approve an entertainment permit the Safety Services Committee shall schedule a public hearing and shall approve or deny and/or condition an entertainment permit upon making the following findings on the record:

(a) The granting of previous entertainment and other related permits to the applicant has not, in the past, resulted in the operation of an establishment which have (1) created public or private nuisances, (2) violated any noise regulations or (3) created other disturbances to the surrounding community such that calls for services to the Police Department have been excessive to such an extent as to cause injury or property damage;

(b) The business or applicant has not received two or more findings of a violation by the Safety Services Committee after a hearing that has been upheld on appeal, or been convicted of, or has entered a plea of guilty to two or more violations of the provisions of this Chapter, or of any other law or ordinance relating to such business;

(c) The entertainment will not attract crowds exceeding applicable capacity limits for that location or would not compromise the public safety and/or peace and welfare of the surrounding area or the business;

(d) The entertainment will be compatible with the surrounding community considering proximity to other businesses, residences etc.;

(e) The granting of an entertainment permit will not violate the Cranston Municipal Code or other applicable state, or federal laws or regulations;

(f) No outstanding debt, including any fees taxes or charges exist with the City of Cranston;

(g) All Land Use Approval(s) have been obtained;

(h) Proper notice has been given to all residences and businesses within 400 feet.

5-64-067 Entertainment restrictions.

The Safety Services Committee may impose the following restrictions on the Entertainment Permit to mitigate health, welfare and safety concerns.

20 (a) That entertainment is not audible beyond 50 feet from the exterior walls of the
 21 business in any direction. That doors and windows be closed during performances to alleviate
 122 noise issues;

123 (b) That the premises has sufficient sound-absorbing insulation such that noise generated
 124 within the premises shall not be audible from the exterior;

125 (c) For new permits or locations where structural modifications have been made, the
 126 applicant shall submit a sound survey prepared by a licensed engineer showing that the proposed
 127 entertainment will not create undue noise or violate the decibel limits for the zoning district. This
 128 survey shall state the maximum allowable interior decibel limits;

129 (d) That activities taking place at the establishment are only those specified in the
 130 entertainment permit and/or in the license issued by the City of Cranston Code and City of
 131 Cranston Charter, or any other restriction issued by any regulatory power with authority over the
 132 business or premise;

133 (e) That all areas of the establishment that are accessible to patrons shall be illuminated to
 134 make easily discernible the appearance and conduct of all persons in the business;

135 (f) That the entertainment permit is conspicuously posted in establishment;

136 (g) That conditions imposed herein apply at all hours, regardless if entertainment is
 137 present;

138 (h) Limit hours when entertainment is permitted including days of the week and hours of
 139 the day;

140 (i) That the types of entertainment be restricted. For example amplified vs. non amplified,
 141 live bands vs. DJ, number of performers and where entertainment can be performed such as
 142 inside, stage location, dance floor location and size and where dancing may take place, if at all;

143 (j) That additional security be provided including: ☐ 1. Uniformed or non-uniformed
 144 security officers certified by State of Rhode Island; 2. Number of security officers; 3. Security
 145 Cameras/system requirements; 4. Areas security must patrol.

146 The above conditions are intended to protect the health, safety and welfare of citizens of
 147 Cranston. The Safety Services Committee may impose additional conditions if unique
 148 circumstances at a particular establishment demonstrate health, safety and welfare issues that
 149 must be mitigated (unique conditions). If unique conditions are imposed, the Safety Services
 150 Committee will provide written statement with facts demonstrating the need for the unique
 151 conditions.

152 **5-64-068 Permit-Period valid.** The permit shall be granted for the specific occasion
 153 requested, or if the request is for continuous permit, the permit shall be issued for not longer than
 154 one year.

155 **5-64-069 Permit-Notice to Applicant of Action Taken.** If no Land Use Approval is
 156 required, within thirty (30) calendar days after the filing of the application, unless the applicant
 157 signs a written waiver of notice, the Police Department shall mail or personally deliver written
 158 notice to the applicant stating the action that was taken on the application, together with a list of

any conditions imposed if the application is granted or, if the application is denied, the specific grounds for the denial. The notice shall also advise the applicant of his/her right to appeal the denial of his application or any of the conditions imposed.

5-64-070 Exceptions: The following activities shall not require an Entertainment Permit:

(a) Establishments which provide juke boxes, televisions, video games, video programs, or recorded music and no other entertainment, as herein defined, are not required to comply with the provisions of this chapter, unless the recorded music is played on equipment which is operated by an agent or contractor of the establishment for a period exceeding ten (10) minutes per hour. The intent of this section is to require a permit of establishments which provide that which is commonly known as a "DJ" and to exempt establishments which provide incidental or ambient music.

(b) For entertainment conducted by or sponsored by any bona fide club, society or association, organized or incorporated for benevolent, charitable, dramatic or literary purposes having an established membership and which holds meetings other than such entertainment at regular intervals, when proceeds, if any, arising from such entertainment are used for the purposes of such club, society or association.

(c) Any form of entertainment that State or Federal Law preempts the City from regulating.

5-64-071 Revocation and/or Suspension of Permit.

The Safety Services Committee may revoke or suspend an entertainment permit upon receiving satisfactory evidence that:

(a) City Council administrative or criminal citation(s) which have been upheld and which the Safety Services Committee, Cranston Municipal Court or other judicial body determines evidence that continued operation of the entertainment will constitute public health, safety and welfare problems.

(b) The entertainment (including employee or patron behavior) is detrimental to the public welfare.

(c) The application contains incorrect, false, or misleading information.

(d) The permit holder has had an entertainment permit or other similar permit or license denied or revoked for cause by the City of Cranston.

(e) The permit holder caused or permitted to be caused a violation of any provision of this Chapter, conditions of Entertainment Permit or Land Use Approval.

Upon determining that grounds for permit revocation or discipline or suspension exist, the Safety Services Committee shall furnish written notice of a violation hearing to the permit holder. Such notice shall summarize the principal reasons for the hearing. If the notice is mailed, it shall be deposited in the United States Mail, first class postage prepaid, to the address shown on the application. Service shall be deemed complete upon personal service or mailed in the United States Mail. The notice shall direct the applicant of his right to a hearing before the Safety Services Committee and then an of the action taken to the full City Council.

Notwithstanding anything to the contrary, the Chief of Police shall exercise emergency powers to protect the health, safety and welfare of the Citizens, including the power to close any establishment that endangers the health, safety and welfare of the Citizens.

5-64-072 Revocation of permit - Reapplication. Whenever a permit or license is revoked under the terms of this chapter, no other application for a permit under this chapter shall be considered for a period of one year from date of such revocation.

5-64-073 Permit Violations. All owners, employees, representatives, and agents shall obey all state, local, and municipal laws, conditions of the Conditional Use Permit, Entertainment Permit, Alcoholic Beverage Control License, or any other regulations, provisions, or restrictions prescribed at all times. Any violations of any law or conditions will be considered violations of the permit to constitute permit suspension or revocation in addition to civil or criminal enforcement.

5-64-074 Separate Violations. Any permit Violation described in section 5.44.110 shall constitute a separate violation of and each violation may be charged as a separate count in the event of administrative or criminal enforcement action.

5-64-075 Appeal Process. Only applicants and/or permit holders have standing to administratively appeal a decision of the Safety Services Committee. Appellee shall file an appeal with the Safety Services Committee within 10 days of receipt of decision. In the event an appeal is not filed, Appellee shall be precluded from further administrative appeal or judicial action.

(a) Appellee shall submit a form to the Clerk detailing the facts/support and/or legal argument as to why his/her decision is being appealed. The Chairman of the Safety Services Committee/City Clerk shall forward the appeal form to the Council President or his or her designee who shall be the adjudicative officer deciding the appeal.

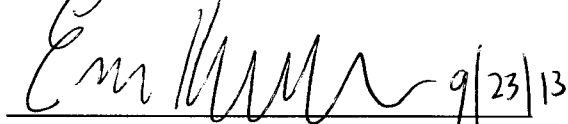
(b) A hearing will be set by the full City Council of the City of Cranston within 30 days after receipt of the appeal from the Safety Services Committee.

(c) The Safety Services Committee shall consider relevant evidence which may be written or oral in relation to the Safety Services Committee's decision to deny or impose conditions regarding the permit as set forth above. The Appellee bears the burden of proving (civil standard) that the Safety Services Committee's decision was arbitrary or capricious. The formal rules of evidence will not apply and cross examination will not be permitted. The City Council's attorney or City Solicitor shall provide a written decision within 14 days after the hearing and that determination will be considered a final decision for purposes of all appellee's rights.

Section 2. This Ordinance shall take effect on its final adoption.

Positive Endorsement

Negative Endorsement (attach reasons)


 Christopher Rawson, Solicitor Date 9/23/13

 Christopher Rawson, Solicitor Date

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Sponsored by Safety Services Committee

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Referred to Safety Services & Licenses September 9, 2013

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