Agenda Item No. 15

File Code No. 520.04

CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: October 20, 2009

TO: Mayor and Councilmembers

FROM: Chief's Staff, Police Department

SUBJECT: Request from Councilmembers Schneider and Williams Regarding Amending the Dance Permit Ordinance

RECOMMENDATION:

That Council consider the request from Councilmembers Schneider and Williams to refer Amending the Dance Permit Ordinance to the Ordinance Committee.

DISCUSSION:

Attached is a memorandum from Councilmembers Schneider and Williams requesting that an amendment to the Dance Permit Ordinance be considered by the Ordinance Committee. This would exempt small establishments outside the City's Entertainment District which only have a beer and wine alcohol permit (i.e., no full liquor license) and a maximum occupancy of 80 or below from the City's Dance Permit Ordinance as amended last year.

ATTACHMENT: Memorandum from Councilmembers Schneider and Williams

PREPARED BY: Linda Gunther, Administrator's Office Supervisor

SUBMITTED BY: Joan Kent, Assistant City Administrator

APPROVED BY: City Administrator's Office

City of Santa Barbara
Mayor and Council Offices

Memorandum

RECEIVED
SEP 10 2009
CITY ADMINISTRATOR'S OFFICE
SANTA BARBARA

DATE: September 10, 2009

TO: Jim Armstrong, City Administrator

FROM: Councilmember Das Williams
Councilmember Helene Schneider

SUBJECT: Amending the Dance Permit Ordinance

Pursuant to Council Resolution 05-073 regarding the Conduct of City Council Meetings, we request that an item be placed on the Santa Barbara City Council Agenda at the earliest convenience regarding drafting an amendment to the Dance Permit Ordinance to allow dancing in establishments outside the City's Entertainment District.

- Summary of Information to be Presented and Background Information

Discussion of proposed amendment to the attached Dance Permit Ordinance.

- Statement of Specific Action

Councilmembers Williams and Schneider request that Council authorize staff to instruct the Ordinance Committee to draft an amendment for Council consideration to Chapter 5.20 of Title Five of the Santa Barbara Municipal Code, the Dance Permit Ordinance, that would exempt small establishments outside of the City's Entertainment District with only a beer and wine alcohol permit (i.e. no full liquor license) and a maximum occupancy of 80 or below from the Ordinance.

- Statement of the Reasons Why it is Appropriate and Within the Jurisdiction of the Council to Consider this Subject Matter and to Take the Requested Action

Such an amendment would correct an unintended consequence of the City's Dance Permit Ordinance without impacting the noise abatement goals of the Ordinance within the City's Entertainment District.

Chapter 5.20

DANCE PERMITS

Sections:

5.20.010	**Definitions.**
5.20.020	**Public Dance Permit Required.**
5.20.030	**Exclusions from Dance Permit Requirement.**
5.20.050	**Application for City Dance Permit.**
5.20.060	**Public Noticing of Dance Permit Applications.**
5.20.070	**Issuance of Certain Dance Permits – Administrative Issuance of Permits by Chief of Police; Board Hearing Procedures for Nightclub Dance Permit Applications.**
5.20.080	**Permissible Dance Permit Conditions.**
5.20.090	**Appeal From Denial or From Conditional Approvals or From a Renewal Application.**
5.20.100	**Duration of Dance Permits.**
5.20.110	**Renewal of Dance Permits.**
5.20.120	**Display of Dance Permits.**
5.20.130	**Dance Permits Not Transferable.**
5.20.140	**Dance Permittee Reporting of ABC License Violations.**
5.20.150	**Suspension or Revocation of a Dance Permit.**
5.20.160	**New Permit Application After Revocation or Denial.**
5.20.170	**No Outdoor Dancing – Nightclub Permits.**
5.20.180	**Pre-Approval Application Process.**
5.20.190	**Adoption of Rules and Regulations; Application/Renewal Fees.**

5.20.010 Definitions.

For the purposes of this Chapter, the following words and phrases used herein are defined as follows:

A. ABC LICENSE. The license issued by the California Department of Alcoholic Beverage Control for the sale and consumption of alcoholic beverages.

B. APPLICANT. A person as defined by this Chapter who seeks the issuance of a dance permit.

C. DANCE OR DANCING. Movement of the human body and feet in rhythm generally to music.

D. DANCE ESTABLISHMENT. A person or business who conducts a public dance or public dances.

E. DANCE PATRONS. Customers, invitees, or members of the public that attend a public dance.

F. DANCE PERMIT. Either a Limited Dance Permit, a Live Entertainment Dance Permit, or a Nightclub Dance Permit.

G. ENTERTAINMENT DISTRICT. The area of the City defined in the City of Santa Barbara's General Plan as the Entertainment District, which is bounded by Sola Street on the north, Santa Barbara Street on the east, Chapala Street on the west, and Cabrillo Boulevard on the south.

H. LIMITED DANCE PERMIT. A Dance Permit issued to a dance establishment which requests such a permit, and which provides that the following permit restrictions apply:

1. The permit allows no more than twelve (12) public dances on twelve (12) separate days per year;
2. Dancing at the establishment must end prior to midnight on each occasion;
3. Such other conditions which the Chief may deem appropriate under the circumstances of the application, especially with respect to the required security measures and noise mitigation measures.

I. LIVE ENTERTAINMENT DANCE PERMIT. A Live Entertainment Dance Permit issued to a dance establishment which requests such a permit, and which provides that the following permit restrictions apply:

1. The music (including singing) provided for the dancing is performed live exclusively and is not pre-recorded;
2. The music (including singing) provided for the dancing is not amplified in any way and is exclusively acoustic music;
3. The dance establishment does not offer dancing more than three (3) nights per week;
4. Such other conditions which the Chief of Police may deem appropriate under the circumstances of the application, especially with respect to the required security measures and noise mitigation measures;
5. Dancing within the establishment will not continue beyond one o'clock a.m. each day that dancing and live music is offered at the establishment.

J. NIGHTCLUB DANCE PERMIT. A dance permit issued by the City, which is not classified as or restricted like a Limited Dance Permit or a Live Entertainment Dance Permit.

K. PERSON. Includes both the singular and the plural, and shall mean any individual, business, firm, company, corporation, association, partnership, legal entity, or society (exclusive of public agencies), including the authorized agents thereof.

L. PUBLIC DANCE. Any gathering of persons in or upon any nonresidential or commercial premises where dancing occurs, either as the main purpose for such gathering or as an incident to the conduct of another business, and to which the public is admitted. (Ord. 5445, 2008.)

5.20.020 Public Dance Permit Required.

No person shall conduct or operate a public dance in the City of Santa Barbara without first obtaining a City dance permit as required by this Chapter. (Ord. 5445, 2008.)

5.20.030 Exclusions from Dance Permit Requirement.

A City dance permit under Section 5.20.020 of this Chapter is not required for the following activities:

A. DANCES AT CITY FACILITIES. Any public dance conducted in a park or recreational facility owned or operated by the City of Santa Barbara, where the City facility has been properly reserved for a private non-commercial function and the dancing has been otherwise expressly permitted by the City for that facility;

B. CLUB DANCES. Any public dance conducted by or sponsored by any club or similar association organized for charitable, dramatic, or literary purposes, where the club or association has pre-established association membership and it holds regular meetings for purposes other than dancing, provided the net proceeds from the public dances are used exclusively for the purposes which the club or association has been officially established;

C. NONPROFIT YOUTH DANCES. Any public dance sponsored by any nonprofit public benefit organization (as established pursuant to state law) whose primary objective is the sponsoring of youth activities so long as all of the following requirements are met:

1. No person eighteen (18) years of age or older may be in attendance, unless such person is a bona fide student at, or member of, the sponsoring agency or organization;
2. No alcoholic beverages are served or available at the premises where the dance is held;
3. Chaperones from the sponsoring agency are present on the premises at the rate of two adults (who are at least twenty-five years of age or older) for every one hundred guests;
4. The dance ends by midnight, and the establishment and the adjoining parking lots are promptly vacated no later than 12:30 a.m. after the dance.

D. PRIVATE CLUB DANCES. Dancing occasionally provided for members and their guests at a private club having a pre-established membership, where admission to the dance is not open to the general public and where the dance is not held within premises licensed as a restaurant or premises licensed by the ABC for the public sale of alcohol to the general public. For purposes of this Section, "private club" shall mean a corporation or association operated solely for objects of national, social, fraternal, patriotic, political, or athletic nature, in which membership is by application and regular dues are charged, and the facilities of the club belong to members, and the operation of which is not primarily for monetary gain;

E. PRIVATE PARTIES. Dancing occasionally provided for invited guests only at a private non-commercial event such as a wedding reception, an anniversary party, private banquet, or similar private or family celebration, where there is no admission charge and where the invitation is not concurrent with the event or party;

F. CITY-SPONSORED DANCES AND DANCE LESSONS. A dance or dance lessons provided or sponsored by the City of Santa Barbara.

G. CHURCH DANCES. Dancing occasionally conducted or sponsored by any religious or other corporation or organization exempt from taxation pursuant to Internal Revenue Code Section 501, where all net proceeds from the dance (including all net proceeds from refreshments sold or served at the dance) are used exclusively for the charitable, religious, or benevolent purposes of such corporation or organization;

H. SCHOOL PERFORMANCES. Performances or student recitals by students or performers at educational institutions (as defined by the Education Code), where such performances are part of an educational or instructional curriculum or program;

I. THEATRICAL PERFORMANCES. Dancing on a stage as part of a theater performance in a play or a similar dramatic or musical theater production or in connection with performances permitted pursuant to subparagraph (A)(2) of Santa Barbara Municipal Code Section 28.81.020;

J. PRIVATE DANCE INSTRUCTION. Dance lessons or dance instruction by a business, provided such lessons or instruction begin and end prior to 9:00 p.m. each day.

K. PHYSICAL FITNESS CENTERS. Physical exercise to music provided by an athletic club, gym, or similar physical fitness center. (Ord. 5445, 2008.)

5.20.050 Application for City Dance Permit.

A. DANCE PERMIT APPLICATIONS. An application for any type of dance permit shall be filed with the Chief of Police on the required departmental application form, which form shall provide at least all of the following information:

1. The name and permanent address of the applicant and all persons having any financial interest in the dance establishment, including all partners, members, or stockholders thereof, and including the owner of the real property where the public dancing is to be located;
2. The maximum number of persons who are expected to be present within the dance establishment at any one time;
3. For a new business establishment, the proposed opening date, and hours and days of operation of the dance establishment, in particular those days and hours when dance music will be provided;

4. For Limited Dance Permit applications, the dates and hours when dancing will occur and, for Live Entertainment permit applications, the days of the week for which dancing is proposed;

5. A detailed architectural site or floor plan (drawn to scale) depicting the interior of the dance establishment, including, in particular, the location, size and number of dance floors, all windows, doors and exits, and all tables and chairs and other seating within the establishment;

6. For a Nightclub Dance Permit application, a noise mitigation site plan (drawn to scale) of the interior of the dance establishment, including, in particular, the locations and specifications of all speakers, televisions, video monitors, and all other audio and amplification equipment, and disc jockey booth, as well as the location of any stage or other area where musicians will perform along with a narrative explanation of how the establishment will mitigate adverse noise impacts on surrounding properties during the operation of the nightclub;

7. For a Nightclub Dance Permit application, a business plan for the operation of the dance establishment, such as statement of the applicant's business goals for the dance establishment, the age group of the patrons the business will seek to attract, the type of music which will generally be played, and a general description of the applicant's plan for achieving its business goals;

8. For a Nightclub Dance Permit application, a comprehensive security plan for allowing the establishment to maintain order at all times, including, but not limited to, the following plan information:

a. The number of designated security personnel to be available on the premises depending or based on weekday or weekend nights.

b. A security site plan (including a scaled drawing) depicting and describing the proposed security arrangements and showing where security personnel will be stationed during the hours of 8:00 p.m. until closing each night.

c. The designation of a security manager (or managers) by name and the cell phone contact numbers for such managers, which information shall be kept current with the Police Department at all times by the permittee;

9. The name or names of the those persons (including cell phone contact numbers) designated by the owners of the establishment as having the day to day management and supervision authority over the proposed dance establishment (as the designated "general manager(s)"), which manager information and phone numbers shall be kept current with the Police Department by the applicant at all times;

10. Whether or not the applicant or any other person(s) having an interest in the establishment (including the designated security managers) have been convicted of a misdemeanor or felony offense, and if so, the nature of such offense(s), and the sentence(s) received therefor, including whether any person so convicted remains on probation or parole;

11. A "Land Use/Building Permit Clearance" form or other required approval issued by the Community Development Department, certifying in writing that the zoning for the dance establishment premises allows such a use as that being proposed and that all required building and other uniform construction code permits necessary to legally operate the establishment have been duly obtained, and all City-approved final inspections have been received;

12. Completed Police Department fingerprinting for the applicant(s) (including all persons having an ownership interest in the dance establishment to be permitted), as well as fingerprinting for the required designated security managers and the establishment's designated general manager(s);

13. The submission to the Police Department of a written inspection report on the dance permit establishment location prepared by the City Fire Marshal in order to allow the Department to assess and review the dance establishment's compliance with the Uniform Fire Code requirements as adopted by the City; and

14. Such other information as the Police Chief shall deem necessary for the proper processing and review of the application. (Ord. 5445, 2008.)

5.20.060 Public Noticing of Dance Permit Applications.

A. NIGHTCLUB DANCE PERMIT NOTICING. Notice of the required Board of Fire and Police Commissioners public hearing regarding the issuance of a Nightclub Dance Permit shall be provided to the public by the applicant in each of the following ways:

1. Mailed Notices to Neighbors. Written notice of the Board hearing shall be sent by first class United States mail (postage prepaid) not less than ten calendar days prior to the scheduled Board hearing, to all owners of real property as shown on the latest equalized assessment roll within a radius of two hundred feet (200') from the real property parcel for which the Nightclub Dance Permit is proposed.

2. Posting the Exterior of the Premises. The applicant shall post a notice on the exterior of the establishment for which the Nightclub Dance Permit is sought at least fourteen (14) calendar days prior to the Board hearing, and for no less than ten consecutive days, in a visible location in a manner as required by the Chief of Police.

3. Contents of Required Public Notice and Posting. The Chief of Police will provide an applicant with the required form of the notice to be mailed and of the posted notice necessary to provide public noticing required by this Section, and only such forms of notice shall be used for this purpose as established in the approved Dance Permit Ordinance guidelines.

B. LIMITED DANCE AND LIVE ENTERTAINMENT DANCE PERMIT NOTICING. Public noticing of a dance permit application for a Limited Dance Permit or for a Live Entertainment Dance Permit need only be provided by posting of the notice in accordance with subparagraph (A)(2) above, unless the Chief of Police determines that additional public notice requirements (including mailed notices) consistent with this Chapter are appropriate under the circumstances of the particular application. (Ord. 5445, 2008.)

5.20.070 Issuance of Certain Dance Permits - Administrative Issuance of Permits by Chief of Police; Board Hearing Procedures for Nightclub Dance Permit Applications.

A. ISSUANCE OR RENEWAL OF A LIMITED DANCE PERMIT OR A LIVE ENTERTAINMENT DANCE PERMIT BY THE CHIEF OF POLICE.

1. Issuance. Upon the completion of the required public posting of an application for a Limited or Live Entertainment Dance Permit as established by Section 5.60.060(B), an application for a Limited Dance Permit or for a Live Entertainment Dance Permit shall be issued in the first instance by the Chief of Police (or the Chief's designated departmental representative) after the completion of a public meeting on the application at a date, time, and location established for the meeting by the Chief and as stated in the public noticing for the dance permit application.

2. Conditions of Approval; One Year Validity; Process for Renewal. Limited and Live Entertainment Dance Permits may be conditioned as deemed appropriate by the Chief of Police in accordance with the standard permit conditions provided for in Section 5.20.080 hereof. Limited Dance Permits and Live Entertainment Dance Permits issued under this subparagraph shall be valid for a period not to exceed one year and may be renewed annually upon application by the permittee filed not less than thirty (30) days prior to the expiration date of the permit. Upon a denial of a permit, or refusal of an applicant to accept a required condition of approval, the Chief shall provide the applicant with written explanation of the reasons for the denial or for the condition, and such reasons shall be one or more the grounds for denial set forth in subsection C hereof.

3. Renewal Applications. A renewal of a Limited or Live Entertainment Dance Permit need not require a new application, provided that original application information remains current and correct and the renewal request is consistent with the requirements established for such requests in the Dance Permit guidelines authorized by this Chapter.

4. Referral of a Limited or Live Entertainment Dance Permit to the Board. The Chief of Police, when appropriate, may refer an original application (or a renewal application) for a Limited or Live Entertainment Dance Permit for premises located within the City's Entertainment District to the City's Board of Fire and Police Commissioners for action on the application consistent with the requirements of this Chapter.

B. APPROVAL, CONDITIONAL APPROVAL, OR DENIAL OF A NIGHTCLUB DANCE PERMIT APPLICATION. Within 45 days of the filing of a completed application for a Nightclub Dance Permit (as such completion is determined by the Chief of Police), and upon the completion of the public noticing required by Section 5.60.060, the Board of Fire and Police Commissioners shall review the application for a Nightclub Dance Permit and either issue the permit, issue the permit with appropriate conditions consistent with Section 5.20.080 hereof, or deny the application for a Nightclub dance permit.

C. GROUNDS FOR DENIAL OF A NIGHTCLUB DANCE PERMIT. The Board shall deny an application for a Nightclub Dance Permit only when it has evidence sufficient to make or one or more of the following findings for denial:

1. The applicant has made a false statement of material fact on the dance permit application or has omitted a material fact as part of the dance permit application.
2. The applicant or any person designated by the applicant to exercise on-site managerial control over the nightclub has been convicted of a crime which is substantially related to the qualifications, functions, or required duties of a permittee, within the past five years.
3. The operation of a nightclub at the proposed permit location will interfere with the peace and quiet of a substantial number of persons living in residential dwellings in the vicinity of the dance permit location, such that it would deprive the occupants of such dwellings of the reasonable use and enjoyment of their residential property.
4. The building within which the nightclub will be located is inappropriate or unworkable for its intended nightclub use because it will be inadequate for some or all of the following reasons: a. it will not provide adequate noise control necessary to restrict the noise of the dance club to within the structure; or b. it lacks the appropriate and necessary ingress and egress for entering or exiting the structure in terms of its occupancy limitations and the applicable fire code requirements.
5. The proposed plan for maintaining security at the nightclub is inadequate. (Ord. 5445, 2008.)

5.20.080 Permissible Dance Permit Conditions.

A. IMPOSITION OF CONDITIONS. The Chief of Police (or his designee) or the Board may, upon issuing a Dance Permit, impose the following permit conditions relating to the operation of the dance establishment:

1. A condition limiting the days, hours and location of the operation of the dance establishment and establishing that dancing shall not be permitted under any circumstances between the hours of 1:30 a.m. and 8:00 a.m.;

2. A condition restricting separate entrances, exits, and restroom facilities on the premises, or other similar restrictions designed to prevent minors from obtaining alcohol are required;

3. A condition on the number of persons allowed on the premises at any one time;

4. A condition requiring full compliance with the security and noise mitigation plans as approved;

5. A condition mandating that the closure of certain doors and windows is required and, if necessary, the appropriate hours for such closures;

6. Conditions describing the circumstances under which the Chief of Police must receive advance notice of a particular dance event or a business promotion if that event/promotion is not held as part of the regularly scheduled events of the business;

7. Any additional conditions or measures the establishment must undertake as security precautions in order to control the conduct of patrons as necessary to minimize or prevent disorderly conduct or fighting or overcrowding within the permit establishment;

8. A condition imposing those measures the permittee must undertake to remove litter attributable to the establishment (including litter in and around the establishment);

9. Such other conditions or measures related to public health, safety, and welfare as the Chief of Police may deem appropriate, which may be needed to maintain appropriate security within the establishment (and public areas immediately adjacent to the establishment) or needed to minimize adverse noise impacts on the neighboring property owners or residents. (Ord. 5445, 2008.)

5.20.090 Appeal From Denial or From Conditional Approvals or From a Renewal Application.

A. NIGHTCLUB DANCE PERMIT APPEALS. The denial or approval (including any conditions imposed thereon) of any application for a Nightclub Dance Permit under this Chapter by the Board of Fire and Police Commissioners may be appealed to the City Council by the applicant or by any interested person pursuant to the provisions of Section 1.30.050 of this Code. This right of appeal shall also include an action taken by the City with respect to the renewal or non-renewal of a Nightclub Dance Permit.

B. LIMITED PERMIT OR LIVE ENTERTAINMENT PERMIT APPEALS. The denial or the approval (including any conditions imposed thereon) on any application (including a renewal application) for a Limited Dance Permit or a Live Entertainment Dance Permit by the Chief of Police may be appealed to the City Administrator, which decision on appeal shall be final. The City Administrator is hereby authorized to refer such an appeal to a more appropriate hearing officer or body in the manner described in subsection (b) of SBMC Section 1.30.050, as the City Administrator may deem appropriate. Such a referral may be for the purposes of obtaining a recommendation on the appeal or for other appropriate action on the appeal. This right of appeal shall also include any action taken by the City on a Limited or Live Entertainment Dance Permit renewal application. (Ord. 5445, 2008.)

5.20.100 Duration of Dance Permits.

A. NEW PERMITS - ONE YEAR DURATION. A dance permit issued pursuant to this Chapter shall be valid for one year from the date of issuance.

B. DATE OF EXPIRATION FOR PERMITS VALID AS OF THE ADOPTION OF THIS CHAPTER. Unless an earlier expiration date is specified in a valid dance permit itself, a dance permit issued on or before the effective date of the ordinance enacting this Chapter shall be valid for one year following the anniversary date of the original issuance of the establishment's valid dance permit. (Ord. 5445, 2008.)

5.20.110 Renewal of Dance Permits.

A. RENEWAL APPLICATION. A dance permittee may apply for dance permit renewal by submitting an application for administrative renewal to the Police Chief not less than 30 days prior to the expiration of any dance permit.

B. EXPIRATION STAYED. If a timely and complete application for renewal is filed, the dance permit's expiration date may be stayed at the discretion of the Chief of Police until a decision on the renewal application has been issued by the Chief.

C. POLICE CHIEF TO RENEW. The Police Chief shall review and approve the renewal of a dance permit if the Chief determines that no circumstances existed during the term of the prior valid dance permit, which circumstances would justify the suspension or revocation of the permit as specified in Section 5.20.150, or which circumstances necessitate revisions to the conditions of approval imposed on the Permit.

D. REFERRAL OF RENEWAL APPLICATION TO BOARD. Notwithstanding the above, the Police Chief may refer a decision on the renewal or non-renewal of a Nightclub Dance Permit to the Board of Fire and Police Commissioners for a hearing and decision on renewal application in the first instance and in a manner consistent with the requirements for an original Nightclub Dance Permit application. (Ord. 5445, 2008.)

5.20.120 Display of Dance Permits.

A dance permit issued pursuant to this Chapter shall at all times be publicly displayed in a conspicuous place within the dance establishment for which it was issued. In addition, a copy of the Permit and any conditions of approval shall be immediately produced and made available upon the request of any City fire inspector or City police officer. (Ord. 5445, 2008.)

5.20.130 Dance Permits Not Transferable.

A. TRANSFERS GENERALLY. Dance Permits issued pursuant to this Chapter are not transferable or assignable to another person or location whether by operation of law or otherwise. A transfer or assignment includes, but is not limited to, the following:

1. Partnership and LLC Transfers. If a permittee is a partnership, or a California limited liability company, a transfer of capital interest to a new partner or partners (or members) which computed alone or cumulatively with previous transfers would result or has resulted in the transfer of ownership of a more than twenty-five percent (25%) interest in the capital of the partnership or limited liability company.

2. Corporations. The transfer of more than twenty-five percent of the voting stock in a corporation which is either itself the permittee or is a general partner in a partnership which is the permittee.

B. CHANGES IN "DBA" STATEMENT. Any changes made by an applicant or permittee to the "doing business as" statement of the dance permit establishment shall be reported to the Police Department in writing within 30 days of such a change. (Ord. 5445, 2008.)

5.20.140 Dance Permittee Reporting of ABC License Violations.

A dance permittee shall report all ABC license violations occurring at the permitted business to the Chief of Police within 48 hours of the issuance of the notice of violation by the ABC to the permittee or the permittee's agent. (Ord. 5445, 2008.)

5.20.150 Suspension or Revocation of a Dance Permit.

A. SUSPENSION OF PERMIT BY POLICE CHIEF. The Police Chief may act to temporarily suspend any dance permit issued pursuant to this Chapter when, in the Chief's determination, a person holding a permit has violated any condition imposed on the issuance on the permit, or where the operation of the dance establishment has occurred in a way that constitutes an ongoing public nuisance.

A suspension shall be valid for a period not to exceed sixty (60) days from the date of the suspension unless, in the case of a Nightclub permit, a suspension is appealed by the permittee to the Board of Fire and Police Commissioners pursuant to this section, or the permittee has received a notice of revocation during the sixty (60) day suspension period, in which case the suspension shall be until the Board completes a revocation hearing and issues a written decision on revocation if such a hearing is requested by the permittee in a timely fashion.

B. REVOCATION OF A DANCE PERMIT. The Police Chief may, at the Chief's discretion, issue a written notice of intent to revoke a dance permit to a dance permittee. Such an intent to revoke shall be based only upon the Chief's receipt of information that one of the grounds for revocation listed herein has occurred. A notice of revocation shall be effective not less than ten (10) days after the issuance of a notice of intent to revoke.

C. APPEAL OF A SUSPENSION/REVOCATION DETERMINATION. A permittee who has received a notice of intent to suspend or a notice of intent to revoke a dance permit may appeal the proposed suspension or revocation to the Board of Fire and Police Commissioners by filing a written notice of appeal with the Chief of Police within 10 days of the date of the mailing of the notice of revocation or of the notice of suspension.

D. SUSPENSION/REVOCATION APPEAL HEARING. An appeal of the proposed suspension or revocation of a dance permit shall be conducted by the Board in accordance with the requirements of SBMC Chapter 1.30.

E. GROUNDS FOR SUSPENSION OR REVOCATION. The suspension or revocation of a dance permit shall be based on a written finding, supported by adequate evidence, that one or more of the following circumstances has occurred with respect to the operation of the establishment holding the dance permit:

1. That the Permittee has allowed repeated violations of any provision of this Chapter, the Municipal Code, or any statute, ordinance, or regulation relating to his or her permitted business activity to occur; or

2. That the Permittee has allowed repeated violations of state Penal Code Section 415 or the City's Noise Control Ordinance (SBMC Chapter 9.16) to occur within or immediately adjacent to the real property upon which the permitted premises is located; or

3. That the Permittee has engaged in violations of the state statutes or regulations related to the sale or distribution of alcohol (particularly with respect to the sale of alcohol to persons under 21 years of age) as determined by the ABC; or

4. That the Permittee has failed to take reasonable measures to control the security of the establishment's patrons with appropriate crowd control measures such that instances of overcrowding in violation of Uniform Fire Code occupancy requirements have occurred on more than one occasion; or

5. That the Permittee has repeatedly failed to comply with the permit conditions imposed pursuant to this Chapter; or

6. That the Permittee has substantially altered or changed the approved interior site plan floor configuration or the security plan.

F. APPEAL OF REVOCATION OF NIGHTCLUB PERMIT; REQUIREMENT FOR PRIOR MEDIATION.

1. Right to an Appeal Hearing by the City Council. The decision of the Board revoking or suspending a Nightclub Dance Permit may be appealed by the Permittee to the City Council pursuant to Section 1.30.050 of this Code.

2. Required Participation In Mediation. No such Nightclub Permit appeal shall be heard by the City Council unless, prior to the Council appeal hearing date, the appellant (where the appellant is not the dance permittee) shall have offered to participate in a private mediation process with the permittee in order to determine if the appellant's concerns with the permit application (or its operation) can be appropriately addressed by mutual agreement entered into by mediation, and such mediation has been completed. Such a mediation shall take the form described in Municipal Code Section 22.76.070 of this Code and the regulations adopted pursuant to this Chapter. The written recommendation of the mediator shall be forwarded to the City Council in connection with any Council appeal hearing. (Ord. 5445, 2008.)

5.20.160 New Permit Application After Revocation or Denial.

A. NO NEW APPLICATION - REVOCATION. When a dance permit is revoked or the initial application is denied, no new application for a dance permit from the same person or persons as the permittee for the same type of dance permit shall be allowed within one (1) year after such revocation or denial. (Ord. 5445, 2008.)

5.20.170 No Outdoor Dancing – Nightclub Permits.

No outdoor dancing may be permitted under a Nightclub Dance Permit or Live Entertainment Dance Permit issued for a location within the City's Entertainment District. (Ord. 5445, 2008.)

5.20.180 Pre-Approval Application Process.

An applicant for a dance permit which is not in legal possession or control of the real property upon which proposed dancing establishment would be operated may, at the applicant's discretion, apply pursuant to this Chapter for the conditional issuance of a dance permit, which permit shall, thereafter, be deemed issued only upon a written request to do so signed by the owner of the real property and by the applicant and provided to the Chief of Police. (Ord. 5445, 2008.)

5.20.190 Adoption of Rules and Regulations; Application/Renewal Fees.

The Chief of Police may adopt reasonable rules and regulations (including the setting of appropriate application and renewal fees and the establishment of required application forms) not inconsistent with this Chapter, for the public noticing of application, and for the review, granting, renewal, or denial of permits hereunder and the conduct of the permitted dance activities, which rules, regulations and fees shall be subject to the approval of the City Council by resolution. Copies of such rules and regulations shall be furnished to each dance permittee with the issuance of a dance permit and shall include an enforcement matrix chart describing a process for progressive administrative actions with respect to complaints about dance establishments and violations of this Chapter. (Ord. 5445, 2008.)