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CITY OF DANBURY

OFFICE OF THE MAYOR
155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810

MARK D. BOUGHTON
MAYOR

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June 25, 2012

Honorable Members of the City Council
155 Deer Hill Avenue
Danbury, CT 06810

Re: Entertainment License Ordinance

Dear Council Members:

Attached please find a draft of an Entertainment License Ordinance that would regulate businesses in the Downtown Revitalization Zone providing amplified music, sound or other noise for musical performance and dancing. The Ordinance strikes a balance between the interests of the providers of such entertainment and those of nearby restaurants and other property owners by subjecting the entertainment activities to reasonable conditions related to noise control, hours of operation and the provision of security by the entertainment establishments.

Also proposed is an amendment to the citation hearing ordinance that would allow Danbury police officers, U.N.I.T. members, and the Zoning Enforcement Officer to issue citations imposing financial penalties for violation of the Entertainment License Ordinance.

Please send the Ordinance to a Committee of the Whole and a public hearing.

Sincerely,

Mark D. Boughton, Mayor



RECYCLED
PAPER



ORDINANCE

CITY OF DANBURY, STATE OF CONNECTICUT

CITY COUNCIL

_____ A.D. 2012

Be it ordained by the City Council of the City of Danbury:

The Code of Ordinances of the City of Danbury is hereby amended to add the following Section 11-6:

Sec. 11-6. Entertainment Licenses.

(a) **Purpose.** Places of business located in the City of Danbury (City) Downtown Revitalization Zone (DRZ) which provide amplified music, sound or other noise for musical performances or dancing may have a detrimental effect on adjacent public or private property because of excessive noise, accumulation of outdoor trash, and alcohol abuse. The requirement of an entertainment license will provide standards for the appropriate operation of such places of business and penalties for violations thereto.

(b) **Applicability; Exemptions.** This Ordinance shall apply to any place of business located within the DRZ offering, on a regular or occasional basis, entertainment which includes (1) live or pre-recorded amplified musical performances, or (2) dancing to live or pre-recorded amplified music or song, except for the following exempt activities:

(1) Religious services or performances at any church or other place of worship.

(2) Any place of business that only provides background music or musical performances that do not disrupt normal conversation.

(3) Any activity approved by the City or otherwise permitted by law to take place on public land.

(4) Any temporary circus, farmers market, festival, or carnival exempt from securing a zoning permit in accordance with the City of Danbury Zoning Regulations or otherwise exempt from the City's Zoning Regulations pursuant to state or federal law.

(5) Public and private school programs; studios for instruction in music or dance.

(c) **Definitions.** Unless a contrary intention clearly appears, the following words shall have the meaning given in this section. All words and terms not defined herein shall be used with a meaning of standard usage.

(1) **Amplified.** Any music, sound or other noise which utilizes electronic equipment that increases the strength of electrical signals passing through it by use of electronically powered microphones, speakers, or bullhorns.

(2) **Application.** An entertainment license application the form of which shall be provided by the City to all persons required to obtain a license pursuant to this Ordinance.

(3)-**Downtown Revitalization Zone.** The Downtown Revitalization Zone (DRZ) as defined in the City of Danbury Zoning Regulations.

(4) **Entertainment.** Live or pre-recorded amplified musical performances, and dancing to live or pre-recorded amplified music or song, either by patrons or by performers for the benefit of an audience of two or more persons.

(5) **Establishment.** Any existing or proposed place of business located in the DRZ which is open to the public or a private club, with or without the requirement of an admission fee, providing amplified entertainment as specified herein, including cafes, restaurants, taverns, dance halls, clubs, and other uses as specified in the City of Danbury Zoning Regulations which offer entertainment activities.

(6) **Licensee.** The owner, operator or permittee, as designated by the State of Connecticut, of the establishment, whether owned or leased by the licensee, who applies for and executes the "Entertainment License Application." If the owner or operator is different from the licensee, the owner and/or operator shall also execute and agree to be bound by the representations contained in the application and by the terms of this Ordinance, and shall be considered a licensee in addition to the permittee.

(7) **U.N.I.T.** The City of Danbury Unified Neighborhood Inspection Team whose members are or may hereafter be appointed by the Mayor.

(d) **Application Requirements.** An Application is required to be submitted to and approved by the City to provide entertainment in all establishments as herein defined. The licensee of an establishment shall be held responsible for all violations of the requirements and restrictions specified herein. Approval of the Application shall be a prior condition to operate an establishment providing entertainment, as defined herein. An Application shall include a completed Application Form as provided by the City, a floor plan of the establishment and outdoor premises, and payment of all required fees. An Application shall not be submitted prior to receipt of all required land use approvals for the proposed use. The Application shall be submitted to the City's Zoning Enforcement Officer, who shall approve or deny the Application within thirty (30) days after submittal. An Application shall be approved if it complies with all requirements set forth in this Ordinance and the Application; if the ZEO denies the Application, he shall explain in writing to the applicant why the Application does not comply with the requirements of this Ordinance or the Application. A license shall be valid for three (3) years from the date of issuance unless (1) there is a change in the licensee, as herein defined, in which case a new Application shall be submitted, including payment of all fees, and approved prior to the commencement of any applicable activity after the change or, (2) the license is revoked pursuant to subsection (g) of this Ordinance. A license is not transferable. The fee for a license shall be \$500.00 and shall be paid at the time the Application is submitted to the Zoning Enforcement Officer.

All establishments which are required to submit an Application shall comply with the requirements of this Ordinance as well as all other applicable federal, state and City regulations.

(e) **Existing Establishments.** Any establishment which is lawfully in existence as of the effective date of this Ordinance shall be allowed to continue providing entertainment provided that it files an Application no later than thirty (30) days after the date of this Ordinance. The first Application fee shall be waived for such establishments.

(f) **Restrictions.** Any establishment which receives a license under this Ordinance shall comply, as a condition of the license, with the following requirements, which are intended to provide

reasonable assurances that the quiet, safety and cleanliness of the premises and vicinity are maintained:

(1) Noise.

(i) All amplified music, speech or noise shall be contained within a building on the premises. No amplified equipment, including speakers and bullhorns, shall be so positioned to direct music or other sound outside the building. The establishment shall provide adequate ventilation within the structure such that all windows shall be closed during amplified entertainment and exterior doors shall be open only for the passage of employees and patrons.

(ii) No employee or patron shall vocally promote entertainment provided on the premises by shouting or use of a bullhorn, amplified microphone, or speakers outdoors.

(iii) A licensee shall not make, cause to be made or otherwise allow any loud or unreasonable noise to emanate from the establishment. Noise shall be deemed to be unreasonable when it disturbs, injures or endangers the peace or health of neighboring persons of ordinary sensibilities or when it endangers the health, safety or welfare of the community. Any such noise shall be considered to be a noise disturbance and public nuisance. The prohibitions of this section shall apply whether or not the noise exceeds the decibel levels set forth in § 12-14 (e) of the City Code of Ordinances.

(2) Hours of Operation.

(i) The hours of operation for entertainment shall be from 9:00 a.m. to 2:00 am Fridays and Saturdays, from 11:00 a.m. to 1:00 a.m' Sundays, and from 9:00 a.m. to 1:00 a.m. all other days of the week. No patron shall be permitted to consume alcoholic beverages after the closing hour.

(ii) No alcoholic liquor shall be sold, served or dispensed within one-half hour prior to the closing hour. No patron shall be admitted to the premises after the closing hour. All patrons shall leave the licensed premises within thirty minutes after the closing hour.

(iii) The licensee and employees of the premises may remain on the premises after closing for the purpose of cleaning, maintenance, security, food preparation, and closing the business.

(iv) Establishments that serve alcohol shall not conduct events directed to persons under age 21 (e.g. "teen nights" and "18 and over" parties) except for such events at which alcohol is not served and which events take place in a portion of the establishment that is fully and securely separated by walls, dividers or other code-compliant barriers from areas where alcohol is served or consumed.

(3) Maintenance, Design and Security.

(i) All licensees shall maintain efficient and affirmative supervision over the conduct of their patrons in the licensed premises or on sidewalks contiguous to the licensed premises, to include maintaining free and clear passage on public rights-of-way, on real property owned or leased by the licensee on which the licensed premises are located, and in parking areas owned or leased by the licensee for use by patrons of the licensed premises.

(ii) All licensees shall be responsible for maintaining all outdoor space on the premises, including parking areas, decks, seating areas and all other lands owned or leased by the licensee, and on all abutting public sidewalks of the premises. All such outdoor space shall be kept clear of litter and cleaned daily within eight hours after each closing.

(iii) Entertainment shall be inside the building in location(s) designated in the Application to minimize noise or other nuisances affecting adjacent property.

(iv) The licensee shall not knowingly admit to the premises any person who is then under the influence of intoxicating beverages or of drugs, nor shall the licensee knowingly permit the possession, sale or use of illegal narcotics or hallucinogenic drugs on the premises.

(v) All fights, disturbances, violence or any other violation of law shall be reported to the police immediately by the licensee or employees of the establishment.

(vi) All establishments which serve alcoholic beverages shall comply with and be operated in accordance with all applicable federal, state and City regulations.

(vii) The establishment shall implement other conditions and/or management practices necessary to ensure that management and/or patrons of the establishment maintain the quiet, safety and cleanliness of the premises and the vicinity of the use.

(viii) The licensee shall take all reasonable measures to ensure that public sidewalks and private ways adjacent to the premises are not blocked by patrons or employees and shall provide security whenever patrons gather outdoors.

(ix) Employees of the establishment shall be posted at all entrances and exits to the establishment during the period from 10:00 p.m. to such time past closing that all patrons have left the premises. These employees shall take reasonable steps to prevent patrons waiting to enter the establishment and those exiting the establishment from disrupting the quiet and cleanliness of the neighborhood as they leave the establishment.

Whenever a licensee allows a promoter to use the premises for a particular entertainment event, the licensee shall inform the promoter of the requirements of this Ordinance and shall, at least five (5) days prior to the event, obtain the promoter's agreement to abide by those requirements, provided that the licensee shall remain responsible to the City for compliance with this Ordinance.

(f) **Enforcement.** Enforcement of this Ordinance may be conducted by police officers of the Danbury Police Department, members of the U.N.I.T., or by the City's Zoning Enforcement Officer. At all times while the premises are occupied, police and other enforcement officials, while on duty, must be admitted and granted access to the entire licensed premises, including the parking lot and other areas surrounding the building. No licensee or any employee thereof shall in any way interfere with the official duties or activities of any such police or enforcement official. No licensee or employee thereof shall harass, either verbally or physically, any police or other enforcement official while such police or other enforcement official is performing his or her official duties on or within the establishment or other areas surrounding the establishment.

(g) **Penalties.** Any establishment found in violation of any of the restrictions specified above by a police officer of the Danbury Police Department or other City official authorized to enforce this Ordinance shall be issued a citation of violation in accordance with Sections 12-34 and 12-35 of the City Code of Ordinances for the following penalties to the licensee:

- (i) *First Offense.* Letter of warning pursuant to § 12-34(c) of the Code of Ordinances.
- (ii) *Second Offense within 12 calendar months of first offense.* License suspension of 15 days.
- (iii) *Third Offense within 12 calendar months of second offense.* License suspension of 30 days.
- (iv) *Fourth Offense within 12 calendar months of third offense.* Revocation of license. Licensee may reapply for a license no sooner than six months after the date of the violation.

The citation of violation shall be hand delivered or sent by registered mail within ten (10) days of the violation. The penalties specified above shall only pertain to the provision of entertainment on the premises and shall be in addition to any assessments or penalties imposed pursuant to § 12-34 (b) (4) of the City Code of Ordinances for violations of § 12-14 (h) of the City Code of Ordinances. No suspension or revocation under subsections (ii), (iii) or (iv) above shall be imposed unless and until the licensee is provided with at least fifteen (15) days prior written notice of the proposed suspension or revocation. The notice shall set forth the proposed grounds for the suspension or revocation and provide the licensee with an opportunity to request a hearing before a citation hearing officer appointed pursuant to Section 12-35 (f) of the City Code of Ordinances to show why the license should not be suspended or revoked. Any such request by the licensee shall be in writing and addressed to the official issuing the citation and to the City's Office of the Corporation Counsel and shall be delivered by hand or sent by mail no later than ten (10) days after the date of receipt of the notice. Any person who does not deliver or mail written demand for a hearing within such ten (10) day period shall be deemed to have admitted liability, and the issuing official shall certify such person's failure to respond to the hearing officer. The hearing shall be held in accordance with the procedures set forth in Section 12-35(c) of the City Code of Ordinances. If the hearing officer determines that the license shall be suspended or revoked, he or she shall enter an order which shall set forth the date on which the suspension or revocation shall take effect, which shall be no later than fifteen (15) days from the date of entry of the order.

(h) Additional Penalties for Court Enforcement. If any person violates any provision of this Ordinance by either 1) failing to comply with the requirements of any license issued hereunder, or 2) failing to apply for a license as may be required, such person shall be liable to the City for its costs and reasonable attorney's fees in any action in the courts of this state to enforce the Ordinance.

(i) Effective Date. This Ordinance shall become effective on October 1, 2012.

COPY SHOWING DELECTION AND NEW LANGUAGE:

Sec. 12-34. Citations.

THAT Subsection 12-34(b) of the Code of Ordinances of Danbury, Connecticut is hereby amended by adding a new paragraph (11), which said paragraph reads as follows:

(11) DANBURY POLICE OFFICERS, U.N.I.T. MEMBERS AND THE ZONING ENFORCEMENT OFFICER SHALL BE AUTHORIZED TO ISSUE CITATIONS IMPOSING PENALTIES FOR VIOLATIONS OF THE PROVISIONS OF SECTION 11-6 OF THE DANBURY CODE OF ORDINANCES.

THAT Subsection 12-34(b) of the Code of Ordinances of Danbury, Connecticut is hereby amended by renumbering (b)(11) to become (b)(12) which said paragraph reads as follows:

(12) ~~(11)~~ IN ADDITION TO THOSE OFFICIALS AND THOSE PROVISIONS OF THE ORDINANCES OF THE CITY OF DANBURY ALREADY REFERENCED IN (B)(1) THROUGH (B)(~~11~~) ~~(10)~~, OFFICERS AND EMPLOYEES DESIGNATED PURSUANT TO THE PROVISIONS OF ANY OTHER DULY ENACTED ORDINANCE PROVIDING FOR ENFORCEMENT BY CITATION PROCEDURE ARE HEREBY SO AUTHORIZED.

Note: New language is indicated by CAPITALIZATION COMBINED WITH UNDERLINING except that capitalization is not utilized for the letters in parentheses which indicate subsections.

Deleted language is indicated by strikeouts.



ORDINANCE

CITY OF DANBURY, STATE OF CONNECTICUT

CITY COUNCIL

_____ A.D. 2012

Be it ordained by the City Council of the City of Danbury:

Sec. 12-34. Citations.

THAT Subsection 12-34(b) of the Code of Ordinances of Danbury, Connecticut is hereby amended by adding a new paragraph (11), which said paragraph reads as follows:

(11) Danbury police officers, U.N.I.T. members and the Zoning Enforcement Officer shall be authorized to issue citations imposing penalties for violations of the provisions of section 11-6 of the Danbury Code of Ordinances.

THAT Subsection 12-34(b) of the Code of Ordinances of Danbury, Connecticut is hereby amended by renumbering (b)(11) to become (b)12 which said paragraph reads as follows:

(12) In addition to those officials and those provisions of the ordinances of the City of Danbury already referenced in (b)(1) through (b)(11), officers and employees designated pursuant to the provisions of any other duly enacted ordinance providing for enforcement by citation procedure are hereby so authorized.