

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF WHITE PLAINS
AMENDING TITLE IV OF THE WHITE PLAINS MUNICIPAL CODE ENTITLED "CABARETS"
BY AMENDING ARTICLE I OF CHAPTER 4-4 IN ITS ENTIRETY AND AMENDING SECTION
4-4-30 OF ARTICLE II OF CHAPTER 4-4.

The Common Council of the City of White Plains hereby ordains and enacts as follows:

Section 1. Article I of Title IV, Chapter 4-4, of the White Plains Municipal Code, last amended by ordinance adopted February 6, 2006, is hereby amended, in its entirety, as follows:

A. Sec. 4-4-1. Purpose and Construction.

This chapter shall be deemed an exercise of the police power of the state and of the city for the protection of the economic and social welfare, health, peace and morals of the people of the city and all its provisions shall be liberally construed for the accomplishment of that purpose.

B. Sec. 4-4-2 Definitions.

Cabaret: Any room, space or area used in connection with a business enterprise, in which musical entertainment, singing, dancing or other form of amusement by performers and/or by patrons ("Entertainment") is allowed. A "cabaret" is only permitted in connection with a "restaurant." However, the following shall not constitute a cabaret:

A restaurant or bar located in a hotel having more than 50 sleeping rooms; or

A restaurant or café that provides incidental Entertainment, without dancing, either by:

- electrical devices such as, but not limited to stereos, radios or media players, but not including music provided by a disc jockey; or
- not more than four (4) persons playing non-amplified music; or
- a person with or without a portable low-wattage amplifier associated with a single instrument or microphone.

Accessory Cabaret: A "cabaret" in which the Entertainment and/or dancing do not, in the aggregate, occupy more than 40% of the Net Floor Area of the principal business of a "restaurant."

Primary Cabaret: A "cabaret" in which the Entertainment and/or dancing, in the aggregate, occupy more than 40% of the Net Floor Area of the principal business of a "restaurant."

"Net Floor Area"

The floor area of a premises open to the public excluding bathroom facilities.

Restaurant: a "restaurant" is a business enterprise primarily engaged in preparing, cooking, and serving food and beverages on premises; selected from a full menu by patrons seated at a table or counter; served by a waiter or waitress; and consumed on the premises.

C. Sec. 4-4-3. Operation and Hours.

(a) It shall be unlawful for an owner, operator, proprietor, manager or person in charge of any cabaret to delegate the responsibility of the operation of the cabaret, including security thereat, to any person or entity that is not an employee of said cabaret operator. An owner or employee of the cabaret licensee must be present at the cabaret during all hours of operation and must be in charge of the operation of said cabaret.

(b) It shall be unlawful for an owner, operator, proprietor, manager or person in charge of any cabaret to operate a cabaret on any day between the hours of 3:01 a.m. and 11:59 a.m., however the facility may continue to operate as a restaurant after those hours.

D. Sec. 4-4-4. Intoxicating Liquors.

It shall be unlawful for any person to bring into or have in his or her possession or partake of any intoxicating liquors in any cabaret. This section shall not apply to cabarets where intoxicating liquors may be lawfully sold under the provisions of the Alcoholic Beverage Control Law.

E. Sec. 4-4-5. Nudity.

No person shall be permitted to appear in any cabaret with the chest, breasts or buttocks fully exposed or any portion of the genitals exposed.

F. Sec. 4-4-6. Sound Amplification.

It shall be unlawful for an owner, operator, proprietor, manager or person in charge of any cabaret to operate a cabaret in violation of the following:

(a) **Sound Level.** The sound level of either live or recorded music or other attendant noise as measured from the exterior of the cabaret premises shall not exceed 85 decibels (dB) at any time as measured at a reasonable distance not less than seven (7) nor more than fifteen (15) feet from the premises of the cabaret establishment. A noise level evaluation of the operation of the cabaret use, paid for by the Applicant or owner, shall be conducted by the Department of Building every three (3) months of operation of the cabaret use, with the results to be submitted to the Common Council within two (2) weeks of said evaluation and made available to the public.

(b) **Sound Amplification Equipment.** No Sound Amplification Equipment (speakers, amplifiers, audio systems, radios, televisions, or any other device that can

produce or reproduce sound) shall be installed or operated indoors with the intent to amplify the sound outdoors and/or within any temporary structures(s).

(c) Sound Amplification Shut-Off. Whenever the building or space fire alarm system is activated all Sound Amplification Equipment within the cabaret shall be shut off. Sound Amplification Equipment shall mean speakers, amplifiers, audio systems, radios, televisions, or any device that can produce or reproduce sound.

(d) Reduction of Sound Transmission. In an effort to reduce sound transmission, all doors related to the cabaret use, including those from the street, shall be equipped with automatic self-closers, remain closed during operation of the cabaret use and shall not be permitted to be propped open at any time. Doors may be used for ingress and egress only and must be sealed tightly when closed. In addition, unless technically infeasible, all new cabarets shall incorporate an interior vestibule at the entrance to the room, space or area where the cabaret is proposed.

G. Sec. 4-4-7 Food Service.

It shall be unlawful for an owner, operator, proprietor, manager or person in charge of any cabaret to operate a cabaret without food service available from a printed menu.

H. Sec 4-4-8 Employee Roster.

It shall be unlawful for an owner, operator, proprietor, manager or person in charge of any cabaret to fail to maintain a roster, which contains the name, address and telephone number of all employees, excluding kitchen and wait-staff, working at any given time when such cabaret is open. Such roster shall be maintained on the premises of the cabaret for six (6) months and available for inspection by the Department of Public Safety promptly upon request.

I. Sec. 4-4-9. Entry Fee.

It shall be unlawful for an owner, operator, proprietor, manager or person in charge of an accessory cabaret to charge an entry fee payable at or prior to admission. However this shall not prohibit:

- (1) imposing a fee or fixed charge for entertainment or service that is added to a bill for patrons with reserved table seating; or
- (2) the selling of tickets in advance or the charging of a fee inside the premises for live musical entertainment, excluding a disc jockey, provided a Live Musical Entertainment Permit Form is completed and approved by the Department of Public Safety ten (10) days prior to the scheduled performance.

J. Sec. 4-4-10. Entry Powers of Police Officers and Housing/Building Inspectors.

It shall be unlawful for the owner, proprietor, manager or person in charge of any cabaret or restaurant to refuse admission or entry to the public areas of the cabaret or restaurant during

operating hours to any officer charged with enforcing the penal laws of New York State, the New York State Building Code, the White Plains Supplemental Building Code or the City of White Plains Municipal Code.

K. Sec. 4-4-11. Temporary Closure.

If in the opinion of the Commissioner of Public Safety, or the Commissioner's designee, an owner, proprietor, manager or person in charge of any cabaret, creates, maintains or permits a condition that endangers or threatens to endanger the safety or health of the public, the Commissioner, or designee, may order the immediate temporary closure of the cabaret. It shall be unlawful for an owner, proprietor, manager or person in charge of any cabaret, to fail to comply with such order.

L. Sec. 4-4-12. Penalty.

A violation of any of the provisions of this chapter shall, upon conviction thereof, be punishable by a fine not to exceed two thousand five dollars (\$2,500.00) for each offense or by imprisonment for each offense for a period of not exceeding fifteen (15) days, or by both such fine and imprisonment.

Section 2. Article II of Title IV, Chapter 4-4, of the White Plains Municipal Code, last amended by ordinance adopted February 6, 2006, is hereby amended, as follows:

Sec. 4-4-30. Fee, expiration and transfer.

The annual fee for a cabaret license shall be ~~one~~five hundred dollars (~~\$1~~500.00); provided that in the event a license be granted after July first of any year the license fee shall be one-half the amount of the annual license fee. The commissioner of public safety shall not issue a cabaret license until the applicant has paid such fee to the city. All such licenses shall expire on December 31 next following their issue. Such license shall not be transferable and shall not authorize the person to whom it is granted to conduct a cabaret at any location other than that specified therein.

Section 3. This ordinance shall take effect immediately.