Chapter 10

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ARTICLE I. IN GENERAL

Sec. 10-1. Circuses and carnivals, license required.

Whenever a person desires to run a carnival show or circus or any other amusement of a similar kind in the city he must file with the city clerk a petition to the municipal officers for a license on forms to be provided by such clerk.

(Code 1982, § 4-1)

Sec. 10-2. Theaters, smoking prohibited.

(a) No person shall smoke or carry a lighted cigar, cigarette or pipe in any theater or moving picture house during any performance or public meeting therein, except in such room as may be designated as a smoking room and used for that purpose. This provision shall not be construed to prohibit smoking in the outer lobby of a theater or moving picture house.

(b) This provision shall not be construed to prohibit the use of a cigar, cigarette or pipe upon the stage of any such theater, when used in connection with any theatrical performance.

(Code 1982, § 4-2)

Sec. 10-3. Outdoor pageants, music festivals, concerts, etc.

(a) No person shall exhibit, sponsor, hold, promote or operate any outdoor pageant, music festival, concert, motorcycle meet, snowmobile or other motorized vehicle races, exhibitions or practice sessions of same within the limits of the city without approval by a majority of the council after public hearing.

(b) No person shall be granted such permission unless the applicant satisfies the council that sanitary facilities such as toilets, waste disposal, handwashing facilities, potable water, and first aid facilities are provided and available in close proximity to the event.

(Code 1982, § 4-3)

Cross references: Police supervision of public gatherings, § 50-10.

State law references: Mass gatherings, 22 M.R.S.A. § 1601 et seq.

Secs. 10-4--10-30. Reserved.

ARTICLE II. RACE TRACKS*

***Cross references:** Traffic and vehicles, ch. 70.

State law references: State regulation of harness racing, 8 M.R.S.A. §§ 261--282.

Sec. 10-31. Intent and purpose.

The intention of this article is to provide for the promotion of the safety and general welfare of the public and of the occupants and users of race tracks in the city when used with the intent of financial gain to any person by means of harness horse racing.

(Code 1982, § 4-19)

Sec. 10-32. Definitions.

The following words and terms as used in this article shall be deemed to mean and shall be construed as follows:

Grandstand means any structure on a race track used by spectators during the running of races.

Meet or meeting means the total number of consecutive days, excluding Sundays during which races are run.

Permit means a permit issued in accordance with the provisions of this article.

Race track means any fairgrounds, race track or field in the city which has on it any structure or grandstand, with a capacity of over 100 persons and which is used by spectators at races.

Races means a meeting for contests in the running of horses with the intent to financially benefit any person, including "sulky races," "harness races," and races of horses in any form over a regular course at a set time, with the exception of and the intent to exclude "running races" with "runners" so-called.

(Code 1982, § 4-20)

Cross references: Definitions generally, § 1-2.

Sec. 10-33. Local license required.

No person shall use any race track for races without first obtaining a local license as required by the provisions of this article and those of chapter 22.

(Code 1982, § 4-21)

State law references: State license required to hold a harness race where parimutuel betting occurs, 8 M.R.S.A. §§ 269, 270.

Sec. 10-34. Proof of insurance required.

Upon the request of the city clerk, any person making application for a permit for the operation of a race track for the running of races, as defined in this article, shall give proof to the clerk showing that he, the applicant, carries reasonable liability insurance for the protection of spectators in case of accidents occurring at such races.

(Code 1982, § 4-22)

Sec. 10-35. State regulations govern.

All meets at race tracks shall be set up and run as prescribed by the rules and regulations of the state harness racing commission and as provided by law.

(Code 1982, § 4-23)

Sec. 10-36. Other regulations.

In order to provide for the safety and general welfare of the public and of the occupants and users of the race tracks at races, and in order to eliminate fire hazards, the following provisions shall apply:

(1) The person in charge shall employ at his own expense, during such races, such

number of police officers as the chief of police feels is reasonably necessary to carry out the intent of this section.

(2) If, in the opinion of the chief engineer of the fire department such is reasonably necessary, there shall be a fire truck and crew from the city standing by at the race track during such races. The services of such crew and use of the fire truck shall be paid for by the person in charge at a reasonable rate per day, such rate to be set by the city council and payable to the city.

(3) All gates leading in and out of any grandstand area shall be kept open during the running of the races.

(4) Exit lights shall be installed in conspicuous and appropriate places in any grandstand.

(5) Fire extinguishers shall be placed in appropriate places in all grandstands and underneath such grandstands upon recommendation and under the supervision of the chief of the fire department.

(6) The grandstands and surrounding area shall be swept clean daily.

(Code 1982, § 4-24)

Sec. 10-37. Appeals.

Appeal from any order issued under this article shall be as provided by law.

(Code 1982, § 4-25)

Secs. 10-38--10-60. Reserved.

ARTICLE III. SPECIAL AMUSEMENT PERMIT*

***Editor's note:** Ord. No. 04-05, effective April 1, 2004, amended art. III in its entirety to read as herein set out. Formerly, said article pertained to similar subject matter as enacted by Code 1982; as amended.

DIVISION 1. GENERALLY

Sec. 10-61. Purpose.

The purpose of this article is to regulate, pursuant to 28-A M.R.S.A. § 1054 et seq., the issuance of special amusement permits for music, dancing or entertainment in facilities licensed by the state to sell alcoholic beverages, and to regulate, pursuant to the City of Lewiston's home rule authority, the issuance of special amusement permits for dance halls or nightclubs that admit patrons under the age of 21.

(Ord. No. 04-05, 4-1-04; Ord. No. 11-04, 5-19-11)

Sec. 10-62. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Entertainment includes any amusement, performance, exhibition or diversion for patrons or customers of the licensed premises whether provided by professional entertainers or by full-time or part-time employees of the licensee whose incidental duties include activities with an entertainment value.

Dance hall or nightclub includes any commercial premises a primary function of which is to offer patrons an opportunity to engage in social activities such as dancing, the enjoyment of live or prerecorded music, or the enjoyment of entertainment provided by dancers or other performers, provided that it shall not include (1) events sponsored by accredited educational institutions and held under the direct supervision of school authorities, or (2) events sponsored by bona fide nonprofit organizations which limit admissions to members and guests and which use revenue accruing from admissions exclusively for the benevolent purposes of the organization.

(Ord. No. 04-05, 4-1-04; Ord. No. 11-04, 5-19-11)

Secs. 10-63--10-75. Reserved.

DIVISION 2. PERMIT

Sec. 10-76. Required.

(a) A licensee for the sale of alcoholic beverages to be consumed on the licensed premises shall not permit any live music, dancing, or entertainment of any kind on the premises until he has first obtained a special amusement permit approved by the city council. A business shall not operate as a dance hall or nightclub that admits persons under the age of 21 until the business has first obtained a special amusement permit Class E or Class F approved by the city council. The categories of a special amusement permit are as follows:

Special amusement permit--Class A. Any licensee of a food service establishment Class A, B, or C, or holder of an innkeeper license, with entertainment, which does not include dancing.

Special amusement permit--Class B. Any licensee of a Class A lounge, or holder of an innkeeper license, with entertainment, which does not include dancing.

Special amusement permit--Class C. Any licensee of a Class A lounge, a food service establishment Class A, B or C license, or holder of an innkeeper license, with entertainment, including dancing.

Special amusement permit--Class D. Any business that operates primarily as a function hall for the rental of space for events and holds a Class A lounge, a food service establishment Class A, B or C license, or holder of an innkeeper license, with entertainment, including dancing.

Special amusement permit – Class E. Any business operating as a dance hall or nightclub that admits persons under the age of 21.

Special amusement permit – Class F. Any business operating as a “chem-free” dance hall or nightclub that admits persons age 18 years and older, with no liquor service.

(b) Applications for all special amusement permits shall be made in writing to the city clerk and shall state the name and address of the applicant; the name, address and nature of the business; and any additional information required by the city council necessary to the processing of the application, including but not limited to a copy of the applicant's liquor license.

(Ord. No. 04-05, 4-1-04; Ord. No. 11-04, 5-19-11)

Sec. 10-77. Public hearing.

Before granting a permit, the city council shall hold a public hearing to determine whether issuance of the permit would be detrimental to the public health, safety or welfare or would violate any law, ordinance or regulation. Such determination may include, but is not limited to:

(a) The violation of any law, ordinance or regulation, either in the past or caused by the issuance of the same; or

(b) Conditions of record such as waste disposal violations, health, or safety violations or repeated parking or traffic violations on or in the vicinity of the premises and caused by persons patronizing or employed by the premises or such conditions caused by persons patronizing or employed by the premises which unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the premises to use their property in a reasonable manner; or

(c) Repeated incidents of record of breaches of peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the premises and caused by persons patronizing or employed by the premises.

(d) Any other incident, behavior or occurrence on or about the location that the city council deems to be detrimental to the public health, safety or welfare.

The city council may impose conditions for protecting the public health, safety and welfare on any special amusement permit it issues.

(Ord. No. 04-05, 4-1-04; Ord. No. 04-16, 7-15-04; Ord. No. 11-04, 5-19-11)

Sec. 10-78. Denial.

If the application for a special amusement permit is denied, the city council shall give the applicant a written statement of the reasons for the denial.

(Ord. No. 04-05, 4-1-04)

Sec. 10-79. Term.

A special amusement permit Class A, B, C or D is valid only for the license year of the applicant's existing license. A special amusement permit Class E or F is valid for one year from the date of issuance of the permit.

(Ord. No. 04-05, 4-1-04; Ord. No. 11-04, 5-19-11)

Sec. 10-80. Inspection.

Applicants shall be subject to the inspection provisions of section 22-34.

Whenever inspections of the premises used for or in connection with the operation of a business which has obtained a special amusement permit are provided for or required by ordinance or state law, or are reasonably necessary to secure compliance with any ordinance provision or state law, it shall be the duty of the permittee, or the person in charge of the premises to be inspected, to admit any officer, official, or employee of the municipality authorized to make the inspection at any reasonable time that admission is requested.

In addition to any other penalty which may be provided, the city clerk may suspend for a period of up to 30 days and the city council, after notice and public hearing, may revoke the special amusement permit of any permittee in the municipality who refuses to permit any such officer, official, or employee to make an inspection, or who interferes with such officer, official, or employee while in the performance of his duty, provided that no license or special amusement permit shall be suspended or revoked unless written demand for the inspection is made upon the permittee or person in charge of the premises, at the time it is sought to make the inspection.

(Ord. No. 04-05, 4-1-04; Ord. No. 04-16, 7-15-04; Ord. No. 11-04, 5-19-11)

Sec. 10-81. Suspension or revocation.

The city clerk may suspend any special amusement permit for a period up to 21 days where there is an immediate risk to the public health, safety or welfare. The city council may, after a public hearing preceded by notice to interested parties, suspend or revoke any special amusement permits which have been issued under this article on the grounds that the music, dancing, entertainment or activities so permitted constitutes a detriment to the public health, safety or welfare; violates any law, ordinance or regulation; or if any duly authorized city official has been refused admission to make an inspection of the premises after written request.

(Ord. No. 04-05, 4-1-04; Ord. No. 04-16, 7-15-04; Ord. No. 11-04, 5-19-11)

Sec. 10-82. Adult-oriented live entertainment prohibited.

No entertainment regulated as adult-oriented live entertainment by the provisions of article IV shall be provided by or on behalf of, or at the licensed premises of the holder of a special amusement permit or of an FSE-Class E license.

(Ord. No. 04-05, 4-1-04)

Sec. 10-83. Regulations.

The city council is further authorized, after public notice and hearing, to establish further written rules and regulations governing the issuance, suspension, and revocation of special amusement permits, the classes of permits, the music, dancing, entertainment or activities permitted under each class, and other limitations on these activities required to protect the public health, safety and welfare whenever the need arises. These rules and regulations may specifically determine the location and size of permitted premises, the facilities that may be required for the permitted activities on those premises, and the hours during which the permitted activities are permitted.

Such rules and regulations shall be additional to and consistent with all sections of this article.

All permittees shall comply with Policy Number 10, section V(B) of the City Policy Manual enacted by the city council pertaining to holders of special amusement permits and FSE-Class E licenses and the city council may enact such other or further regulations it deems necessary or appropriate to carry out the purpose of this article.

(Ord. No. 04-05, 4-1-04; Ord. No. 04-16, 7-15-04; Ord. No.11-04, 5-19-11)

Sec. 10-84. Previous ownership.

If the applicant has previously owned, operated or managed or been the primary ownership interest in any company, corporation or other legal entity that has previously held a special amusement permit or liquor license from this municipality, then such information may be used as a basis for determination of the issuance of the permit, consistent with section 10-77.

(Ord. No. 04-16, 7-15-04)

Sec. 10-85. Penalties.

In addition to suspending or revoking a license or permit, the city may prosecute violations in court. A violation of this division shall be punished by a fine, in accordance with the city's policy manual as approved by the city council, regardless of the time between offenses. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. In addition to such penalty, the city may enjoin or abate any violation of this division by appropriate action. In addition to such penalty, if the court finds for the city, the city shall recover its costs of suit including reasonable experts' fees, attorneys' fees and investigative costs.

(Ord. No. 04-16, 7-15-04; Ord. No. 08-06b, 8-14-08; Ord. No.11-04, 5-19-11)

Sec. 10-86. Additional Criteria - Special amusement permit – Class E.

(a) No one who is under the age of 14 or over the age of 20 shall be admitted as a patron of the business while the business is operating under this permit classification.

(b) The business owner shall be responsible for posting a notice in plain view at the establishment regarding the city’s curfew for minors, as outlined in Chapter 50 of this Code and shall also be responsible for the enforcement of such curfew, as outlined in Chapter 50 of this Code.

(Ord. No.11-04, 5-19-11)

Secs. 10-87--10-100. Reserved.

ARTICLE IV. ADULT-ORIENTED LIVE ENTERTAINMENT*

***Editor's note:** Ord. No. 01-2, adopted March 8, 2001, amended the title of Art. IV to read as herein set out.

DIVISION 1. GENERALLY

Sec. 10-101. Purpose.

The purpose of this article is to regulate live entertainment and nudity and near nudity as forms of commercial activity. It has been enacted for the purpose of promoting and protecting the general welfare, public safety and public order of the city and its citizens, to prevent the creation of a tawdry atmosphere that adversely affects the quality of life within the city, to prevent blight and the deterioration of the city's neighborhoods and to prevent the occurrence of harmful secondary effects such as the incidence of crime, disorderly conduct and juvenile delinquency associated with adult-oriented live entertainment in general and more particularly with entertainment such as nude and nearly-nude commercial entertainment. It is not intended to suppress or inhibit the free exchange of ideas or artistic expression.

(Ord. No. 92-33, § 17-139, 1-7-93; Ord. No. 01-2, 3-8-01)

Sec. 10-102. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adult-oriented live entertainment means entertainment that involves near nudity or conduct which shall be deemed obscene under this Code of Ordinances.

Entertainment means any amusement, performance, exhibition or diversion provided by any performer for the patrons or customers of the licensed premises.

Nude entertainment means entertainment in which any performer appears in such a manner or attire as to expose to view any portion of the pubic area, anus, buttocks, vulva or genitals or any simulation thereof, or when any female appears on a licensee's premises in such a manner or attire as to expose to view any portion of the breast referred to as the areola, nipple or simulation thereof. Exposed to view shall be interpreted to include, without limitation, clear, see-through or otherwise non-opaque clothing.

Performer means any person, without regard to whether compensation is paid by the establishment, its patrons or customers, who presents or participates in any entertainment, including, but not limited to, professional entertainers and full-time or part-time employees of the licensed premises whose incidental duties include activities with an entertainment value.

(Ord. No. 92-33, § 17-139.4, 1-7-93; Ord. No. 01-2, 3-8-01; Ord. No. 02-27, 2-20-03)

Cross references: Definitions generally, § 1-2.

Sec. 10-103. Applicability.

This article shall apply to all persons who provide entertainment by one or more performers to members of the general public and who require or accept any valuable consideration for admission or attendance thereto. This article shall apply to holders of existing special amusement permits or FSE-Class E licenses issued by the city. The provisions of this article which require a permit shall not apply to persons who provide entertainment primarily to persons under the age of 17.

(Ord. No. 92-33, § 17-139.1, 1-7-93; Ord. No. 01-2, 3-8-01; Ord. No. 02-27, 2-20-03)

Sec. 10-104. Exceptions.

This article shall not apply to a theater, dinner theater or similar establishment which is

primarily devoted to theatrical performances or the presentation of movies.

(Ord. No. 92-33, § 17-139.2, 1-7-93)

Sec. 10-105. Violations.

Any violation of any provision of this article or of any regulation enacted pursuant to this article shall be subject to the penalties provided for in sections 1-8 and 22-27.

(Ord. No. 92-33, § 17-139.11, 1-7-93)

Secs. 10-106--10-120. Reserved.

DIVISION 2. LICENSE

Sec. 10-121. Required.

No person shall offer or provide entertainment by one or more performers to members of the general public and require or accept any valuable consideration for admission or attendance thereto without having first obtained an adult-oriented live entertainment license approved by the city council.

(Ord. No. 92-33, § 17-139.3, 1-7-93; Ord. No. 01-2, 3-8-01)

Sec. 10-122. Applications.

Applications for all adult-oriented live entertainment licenses shall be made in writing to the city clerk on forms which the city clerk shall provide. The application shall state the name and address of the applicant; address and nature of the entertainment; and any additional information required by the city council or city clerk as necessary to the processing of the application.

(Ord. No. 92-33, § 17-139.5, 1-7-93; Ord. No. 01-2, 3-8-01)

Sec. 10-123. Public hearing.

Before granting a license, the city council shall hold a public hearing to determine whether issuance of the license would be detrimental to the public health, safety or welfare or would violate any statute, ordinance or regulation.

(Ord. No. 92-33, § 17-139.6, 1-7-93)

Sec. 10-124. Denial.

If an application for an adult-oriented live entertainment license is denied, the city council shall give the applicant a written statement of the reasons for the denial.

(Ord. No. 92-33, § 17-139.7, 1-7-93; Ord. No. 01-2, 3-8-01)

Sec. 10-125. Duration of licenses; expiration date.

All licenses, except when otherwise provided, shall be for 12 months duration and shall expire one year from the date of issuance.

(Ord. No. 92-33, § 17-1, 1-7-93)

Sec. 10-126. Schedule of fees.

Unless otherwise provided, no person shall engage in any of the following businesses or activities in the city without having paid the proper fee and obtained a license or permit therefor. The fee shall be paid in accordance with the business fee schedule as established by the city council.

(Ord. No. 92-33, § 17-22, 1-7-93; Ord. No. 01-2, 3-8-01; Ord. No. 04-15, 7-15-04)

Sec. 10-127. Nude entertainment prohibited.

No adult-oriented live entertainment license shall be issued to conduct the activity of nude entertainment on the applicant's premises or any activity otherwise prohibited by the Code. It shall be unlawful and a violation of this article for a licensee holding an adult-oriented live entertainment permit to permit nude entertainment or any other activity otherwise prohibited by this Code on the premises.

(Ord. No. 92-33, § 17-139.8, 1-7-93; Ord. No. 01-2, 3-8-01; Ord. No. 02-27, 2-20-03)

Sec. 10-128. Inspection.

Applicants shall be subject to the inspection provisions of section 22-34.

(Ord. No. 92-33, § 17-139.9, 1-7-93)

Sec. 10-129. Suspension or revocation.

The city council may, after a public hearing preceded by notice to interested parties, suspend or revoke an adult-oriented live entertainment license if it determines that the conduct of the licensed premises constitutes a detriment to the public health, safety or welfare or violates any statute, ordinance or regulation or if any duly authorized city official has been refused admission to make an inspection of the premises after written request.

(Ord. No. 92-33, § 17-139.10, 1-7-93; Ord. No. 01-2, 3-8-01)

Sec. 10-130. Regulations.

All licensees shall comply with Policy Number 10, section V(B) of the city policy manual enacted by the city council pertaining to holders of special amusement permits and FSE-Class E licenses and the city council may enact such other or further regulations it deems necessary or appropriate to carry out the purpose of this article.

(Ord. No. 92-33, § 17-139.13, 1-7-93; Ord. No. 02-27, 2-20-03)

Secs. 10-131--10-150. Reserved.

ARTICLE V. NONCONFORMING USE PERMIT FORADULT BUSINESS ESTABLISHMENTS

Sec. 10-151. Purpose.

The purpose of this article is to regulate the issuance and renewal of permits for adult business establishments, as defined in appendix A, article II, § 2, which are nonconforming by reason of the density provisions of appendix A, article XI.

(Code 1982, § 17-141)

Sec. 10-152. Initial permit.

(a) *Notice.* The city clerk shall send a notice by registered or certified mail to the owner, as shown on the tax records of the city, of any property containing, and to any tenant as shown on the records of the city clerk, holding any license to operate an adult business establishment which is apparently nonconforming by reason of the density provisions of appendix A, article XI. The notice shall advise said owner or tenant that the use of the property as an adult business establishment is apparently nonconforming and that failure to apply for and obtain a nonconforming use permit, as provided herein, may result in the termination of its right to continue such a use.

(b) *Time for application.* An adult business establishment which is eligible for a nonconforming use permit, pursuant to appendix A, article IV, § 6, must submit a complete application, as provided herein, to the city clerk within 90 days from December 20, 1984, or within 30 days from the date of mailing of the notice to the owner or tenant operating said establishment, whichever is later. Nothing herein shall be construed to prevent an eligible nonconforming adult business establishment from applying for a use permit before a notice is sent by the city clerk, and an application for a use permit shall be deemed a waiver of the notice requirement.

(c) *Contents of application.* The application for an initial nonconforming use permit shall be on a form provided by the city clerk, and a complete application shall contain such information as deemed necessary by the city clerk including, but not limited to:

(1) Name and address of applicant.

(2) Whether the applicant is the owner, tenant, or licensee of the premises.

(3) The type of adult business establishment.

(4) The nature of the goods and/or services which make the entity an adult business establishment.

(5) Whether during the 12 months prior to December 20, 1984 the applicant met the qualifications set forth in appendix A, article IV.

The person signing the application shall make an oath or solemn affirmation, as to the truth of the statements therein, before a notary public or attorney.

(d) *Failure to apply.* No nonconforming use permit shall be issued to any adult business establishment which fails to submit a complete application within the time provided in subsection (b) of this section.

(e) *Effective date.* Each permit issued under this section shall be made effective as of December 20, 1984, and shall be valid for a period of one year.

(Code 1982, § 17-142)

Sec. 10-153. Permit renewal.

(a) *Time for application.* The holder of a nonconforming use permit shall submit a complete renewal application, as provided herein, within 30 days prior to the expiration date of the permit.

(b) *Notice of proposed termination.* If no renewal application is received by the expiration date, the city clerk shall thereafter send a notice, by registered or certified mail, to the name and address of the holder of the expired permit as shown on the records of the city clerk, which notice shall advise the holder that failure to submit a late application, as provided herein, will result in termination of its right to continue the nonconforming use.

(c) *Late application.* The holder of an expired nonconforming use permit may obtain a renewal permit by submitting a complete renewal application, as provided herein, together with a late fee of $10.00, not later than 15 days from the date of mailing of the notice.

(d) *Contents of renewal application.* The renewal application shall be on a form provided by the city clerk, and a complete application shall contain such information as deemed necessary by the city clerk; including, but not limited to, such information as is necessary to establish that during the 12 months immediately following the effective date of the last issuance of such permit, the adult business establishment met the qualifications set forth in appendix A, article IV. The person signing the application shall make an oath or solemn affirmation, as to the truth of the statements therein before a notary public or attorney.

(e) *Failure to apply.* No nonconforming use permit shall be issued to any adult business establishment which fails to submit a complete renewal application within the time provided in subsections (b) and (c) of this section.

(Code 1982, § 17-143)

Sec. 10-154. Burden of proof.

In any initial permit application or renewal application under this article, the burden of proof as to whether the applicant meets the qualifications for such a permit shall be on the applicant. The city clerk may require the applicant to produce such documents and records, and to respond to such interrogatories under oath or affirmation, as is reasonably necessary to establish that the applicant qualifies for the permit. For purposes of establishing that the applicant has met the gross receipts requirements of appendix A, article IV, a sworn affidavit of a certified public accountant, who has personal knowledge of the financial records of the applicant, shall be accepted as sufficient evidence on such issues.

(Code 1982, § 17-144)

Sec. 10-155. Decisions and appeals.

Notwithstanding the provisions of sections 22-35 and 22-36, the city clerk shall approve or disapprove any application for a permit under this article, and the board of appeals shall have exclusive jurisdiction over any appeal from the denial of a permit under this article. Any such appeal shall be written, shall state with particularity the grounds upon which the appeal is based, and shall be filed with the board of appeals, with a copy to the city clerk, not more than 15 days after notice of the denial is delivered or mailed to the applicant.

(Code 1982, § 17-145)

ARTICLE VI. AFTER HOURS ENTERTAINMENT EVENTS

DIVISION 1. GENERALLY

Sec. 10-156. Purpose.

The purpose of this article is to control the issuance of licenses for the conduct of after hours entertainment events in order to protect the public health, safety, and peace.

(Ord. No. 00-20, 10-5-00)

Sec. 10-157. Definitions.

An after hours event means an event conducted either indoors or outdoors, normally occurring between the hours of 1:00 a.m. and dawn, where the participants are invited to entertainment in a venue which may be advertised as a chemical free. For the purposes of this chapter, an after hours event will mean a gathering held with the intent to attract the attendance of 100 or more for the purpose set forth herein.

An event which falls within the above description will be regulated by this chapter even if its promoters chose to describe it by another name, augment the entertainment by means of lighting, the use of visual images, or by other means.

The fact that an after hours event might be conducted in a bottle club, or in premises licensed to sell alcoholic beverages will not exempt it from the provisions of this chapter.

(Ord. No. 00-20, 10-5-00; Ord. No. 02-23, 1-9-03)

DIVISION 2. LICENSE

Sec. 10-158. License required.

No person may conduct an after hours event without having obtained a license to do so from the city council. The city council shall conduct a public hearing prior to the issuance of a license.

(1) *Time of filing.* An application for a license to conduct an after hours event must be filed no later than 45 days before the event.

(2) *Application fee.* All applications will require a non-refundable processing fee. The fee shall be paid in accordance with the business fee schedule as established by the city council.

(3) *General provisions to apply.* Except to the extent that this chapter may contain contrary provisions, the provisions of chapter 10 will apply to after hour event licenses.

(4) If the applicant is a fixed and established business located within the city, with an approved entertainment license, sponsoring their own event, and has regularly scheduled after hours entertainment events held at least on a monthly basis, an application will be required on an annual basis. Renewal licenses for an annual after hours entertainment license shall be obtained from the city clerk.

(Ord. No. 00-20, 10-5-00; Ord. No. 02-09, 5-16-02; Ord. No. 02-23, 1-9-03; Ord. No. 04-15, 7-15-04)

Sec. 10-159. Application.

Applications for an after hours event license will be filed in accordance with chapter 10. In addition to the requirements of that chapter, an applicant for an after hours event will furnish the following to the clerk:

(1) An affidavit, identifying all the principal officers of the applicant and their places of residence at the present time, as well as for the immediately preceding three years;

(2) A description of the premises for which a license is desired, including such other material information, description, or plan of that part of the premises where it is proposed to conduct the after hour event, as the clerk may require;

(3) A floor plan showing the layout of the premises; its dimensions; the location of all emergency equipment, including, but not limited to, fire exits and sprinkler systems; rest rooms, including the number and location of all sanitary facilities; the location and number of each entrance and exit; the location of the main fuse box; and such other information as may be required by other city departments; the location of public pay telephones, and

(4) The name, address, date of birth, driver's license number, and state of issuance of all the applicants employees.

(5) If the application is filed on an annual basis, the applicant will furnish any changes identifying the principal officers and employees as they occur.

Ord. No. 00-20, 10-5-00; Ord. No. 02-09, 5-16-02)

Sec. 10-160. Requirement for license.

In addition to any other requirement which may be imposed either by this chapter or by other provisions of the City Code, an applicant for an after hours event license will be required to provide the following police services at no cost to the city:

Police. The applicant will provide a minimum number of sworn members of the Lewiston Police Department in accordance with the requirements of the chart below:

Number of Attendees	*Number of Police*
1-200	1
201-400	2
401-600	3
601+	One sergeant, and one additional officer for each 200 attendees or portion thereof in excess of 601

Additional officers may be required by the chief of police, or his designee, if alcohol is served at the event, or as other situations warrant or at the chief's discretion.

(Ord. No. 00-20, 10-5-00)

Sec. 10-161. Traffic control.

The applicant will provide traffic control in order to ensure the safe movement of pedestrians and vehicles on and about the premises where the after hour event will occur as well as along adjacent public ways. The specific types of control and how they will be provided will be determined by the city's traffic engineer and its police department.

(Ord. No. 00-20, 10-5-00)

Sec. 10-162. Parking.

The applicant will provide off-street parking in the vicinity of the site where the after hour event will be conducted, as follows: One parking space for each 100 square feet or major fraction thereof used in conjunction with the after hour event, excluding restrooms.

(Ord. No. 00-20, 10-5-00)

Sec. 10-163. Sanitation facilities.

The applicant will provide free, potable drinking water, hot water for sanitary purposes, and clean well equipped restroom facilities as directed by the city's health officer or his designee in accordance with the health code. The applicant may be required to provide portable toilet and hand washing facilities. (Ord. No. 00-20, 10-5-00)

Sec. 10-164. Right of entry.

Any law enforcement officer, member of the fire department, or code enforcement officer of the city will have the right to enter in and upon the premises for which a license is sought, during business hours, prior to the after hours event as well as during the time when the after hours event will take place. It is the duty of every licensee as well as the principal officers thereof to afford free access to every part of the establishment and to render all aid and assistance necessary to enable the officials to make a full, thorough, and complete examination thereof in order to determine compliance with this Code and the laws of the state.

(Ord. No. 00-20, 10-5-00)

Sec. 10-165. Appeal.

Any applicant who is denied a renewal license may request a hearing before the city council. The hearing will be held in ten business days by the city council. Any appeal from the decision of the city council will be to the superior court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

(Ord. No. 00-20, 10-5-00; Ord. No. 02-23, 1-9-03)

Sec. 10-166. Duration of license.

Any license granted under this chapter will be valid for a single event which may not exceed 18 continuous hours in duration. (Ord. No. 00-20, 10-05-00)

Sec. 10-167. Restrictions on sound and noise.

Any other provisions of this Code not withstanding, a licensee may not allow either the licensed activity or any other activities on the licensed premises to generate sound or noise, after 1:00 a.m., which exceeds 50 decibels, when measured at the property line of the nearest lot containing a residential dwelling unit.

(Ord. No. 00-20, 10-5-00; Ord. No. 02-23, 1-9-03)

Sec. 10-168. Penalties.

In addition to suspending or revoking a license, the city may prosecute violations in court. A violation of this chapter will be punished by a civil penalty, in accordance with the city's policy manual as approved by the city council, regardless of the time between offenses. Each act of violation and every day upon which any violation should occur will constitute a separate offense. In addition to a civil penalty, the city may enjoin or abate any violation of this chapter by appropriate action. In addition to a civil penalty, if the court should find for the city, it will be entitled to its costs of suit, including reasonable experts' fees, attorneys' fees and investigative costs.

In addition to any civil penalty which may be authorized by this chapter, other provisions of Lewiston's Code, or state law, it will be a violation of this chapter if the sale of scheduled drugs should take place on the licensed premises either with the licensee's knowledge or under circumstances where the licensee, in the exercise of reasonable diligence and care, should have been aware that such sales were occurring. "Scheduled drugs" are those listed in 17-A M.R.S.A. Section 1102, as it may be amended from time to time.

(Ord. No. 00-20, 10-5-00; Ord. No. 08-06b, 8-14-08)

Sec. 10-169. Subsequent application.

(a) In addition to the civil penalties provided in the prior section, any person who is found to be in violation of any provision of this chapter will be barred from obtaining an after hours event license for a 12-month period. The 12-month period will commence to run at the time of final adjudication of the violation and may extend beyond the year in which the license was issued.

(b) The 12-month bar provided in this section will also apply to any private corporation, business, or other economic entity in which the licensee is, directly or indirectly, the owner of at least ten percent of the stock of such private corporation or owns at least a ten percent interest in such business or other economic entity.

(Ord. No. 00-20, 10-5-00)