

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. A new Chapter 6.280 is added to the Seattle Municipal Code as follows:

6.280.010 Legislative Findings.

[Legislative Findings reserved]

6.280.015 Definitions.

For the purpose of this chapter:

A. "City" means the City of Seattle.

B. "Department" means the Department of Executive Administration, or successor entity.

C. "Director" means the Director of the Department of Executive Administration or successor entity, or his or her designee.

D. "Division Director" means the Director of the Department's Division of Revenue and Consumer Affairs or successor entity, or his or her designee.

E. "Hearing Examiner" means the City of Seattle Hearing Examiner, or his or her designee.

F. "Licensee" means the person, persons, or entity that has applied for and been issued a nightlife premises license. For purposes of SMC Section 6.280.080, licensee includes employees and agents of the licensee.

G. "Liquor" has the same meaning as in chapter 66.04 RCW.

H. "Nightlife Premises" means any business open to the public and in which:

1. At any time between the hours of 10:00 p.m. and 6:00 a.m. liquor is served, except where service of liquor is incidental to an event that is not open to the public; and

1 M. "Impacted public area" means a public place within fifty (50) feet of the nightlife
2 premises where patrons or prospective patrons might gather (for example, areas where
3 prospective patrons gather to enter the premises, where patrons gather to smoke, or where
4 patrons gather as they exit the premises).

5 N. "Public place" means streets, avenues, ways, boulevards, drives, places, alleys,
6 sidewalks, and planting (parking) strips, squares, triangles and right-of-way for public use and
7 the space above or beneath its surface, whether or not opened or improved.
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9 **6.280.020 Nightlife Premises Advisory Board.**

10 A. The Mayor shall appoint a Nightlife Premises Advisory Board consisting of seven (7)
11 individuals which shall include a minimum of three (3) current licensees in good standing to
12 represent nightlife premises licensees and other members to represent neighborhood residents,
13 and may include other individuals. The Mayor may remove a Board member by providing
14 notice to the member and to the Board. The Office of Economic Development shall staff the
15 Board.
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17 B. The duties of the Board shall include advising the City regarding: (1) the promotion,
18 development and sustainability of the nightlife industry in Seattle; (2) the implementation of
19 nightlife premises licensing programs and any other matters regarding this chapter; (3) the
20 development of guidelines for effective and responsible business practices for the operation of
21 nightlife premises, including improvements to the Nightlife Premises Operating Standards. The
22 Board shall also prepare and submit an annual report to the Mayor and City Council advising the
23 City regarding the effectiveness of this chapter and any issues regarding enforcement, including
24 the consistency and fairness thereof.
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1 C. The Board may also provide applicants or licensees with assistance, mentorship and
2 professional resource opportunities and advice regarding compliance with the requirements of
3 this chapter. The Board shall meet with those licensees required by the Director to meet with the
4 Board pursuant to this chapter and shall provide those licensees with advice regarding
5 compliance with the requirements of this chapter.

6 D. Board members shall serve a term of three (3) years, unless reappointed by the
7 Mayor. Service on the Board is voluntary and members shall not be compensated.

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9 **6.280.030 License required.**

10 A. It is unlawful for any person to operate a nightlife premises without having a valid
11 nightlife premises license issued pursuant to this chapter.

12 B. A separate license is required for each location at which a nightlife premises is
13 operated.

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15 **6.280.035 Transfer.**

16 No license shall be transferable from one person to another.

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18 **6.280.040 Application for license.**

19 A. License applications shall be filed with the Director on forms provided by the
20 Department and shall include:

- 21 1. The name and business address of the applicant, and the name and business
22 address of the applicant's partners, owners, officers, directors, and the establishment's
23 primary manager. If the applicant is a corporation, the name of the corporation shall
24 be set forth exactly as shown in its articles of incorporation, and the applicant shall set
25 forth the date and place of incorporation, the names and residence addresses of each
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1 of the officers, directors, and each stockholder owning more than ten percent (10%)
2 of the stock of the corporation. If the applicant is a partnership, the application shall
3 set forth the name and residence address of each partner, including limited partners.
4 If one or more of the partners is a corporation, the provisions of this section
5 pertaining to a corporate applicant shall apply.

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7 2. The name of the business and the business address of the location for which the
8 license is sought.

9 3. A copy of a floor plan of the premises showing all points of ingress and egress, a
10 copy of either the nightlife premises' current liquor license or the nightlife premises'
11 pending application for a liquor license; a copy of either the current valid Certificate
12 of Occupancy ("Certificate") for the premises or, if the current Certificate does not
13 accurately reflect current uses of the premises or if a new applicant has applied for
14 but not yet received a Certificate, a copy of the pending application for such a
15 Certificate.
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17 4. A completed license application questionnaire. The Director shall develop the
18 questionnaire. An applicant's responses in the questionnaire shall include a
19 description of the measures the applicant will implement in order to comply with the
20 Nightlife Premises Operating Standards. The Office of Economic Development may,
21 upon a request by the applicant, review the questionnaire and provide assistance to
22 the applicant.
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24 5. Whether the applicant or any one of the applicant's partners, officers, directors, or
25 the establishment's primary manager has, in the past five (5) years, been convicted of
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1 any crime. Any corporate applicant shall state whether any stockholder owning more
2 than ten percent (10%) of the stock of the corporation has, in the past five (5) years,
3 been convicted of any crime. For purposes of this subsection, "convicted" includes
4 any suspended or deferred sentence or acceptance of any deferred prosecution or
5 diversion from formal adjudication. If any person mentioned in this subsection has
6 been so convicted, the application must contain a statement giving the name of the
7 person so convicted, the place and court in which the conviction was obtained, the
8 caption and cause number under which the conviction was obtained, the specific
9 charge under which the conviction was obtained, and the sentence as a result of the
10 conviction.
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12 6. The name and address of an agent residing in King County to whom any notice
13 issued under this chapter may be sent.
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15 B. An application is complete only when the applicant has submitted to the Department
16 all information required by this section together with payment of the applicable fees.
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18 C. Upon receipt of a complete application, the Department shall circulate the application
19 to the City's Police Department, Department of Planning and Development, Fire Department, and
20 Department of Neighborhoods, and to the King County Department of Public Health, or their
21 functional successors ("departments"). The departments shall review the application to
22 determine if the proposed operation of the nightlife premises complies with this chapter and
23 other applicable laws. The departments shall, within fifteen (15) days of their receipt of the
24 application, make a recommendation to the Division Director regarding whether the license
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1 should be granted or denied. A department's failure to respond shall not be a basis for denying
2 an application.

3 D. The Division Director may also seek comment on the application from the
4 Washington State Liquor Control Board, and other governmental agencies the Division Director
5 determines to have relevant information.

6 **6.280.050 Timing of renewal applications.**

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8 An application for a renewal of a license shall be filed with the Department between
9 ninety (90) days and forty-five (45) days prior to the expiration of the current license.

10 **6.280.060 Fee schedule.**

11 The initial application fee for a nightlife premises license shall be Three Hundred Fifty
12 Dollars (\$350). The annual license fee shall be Three Hundred Dollars (\$300). Both the
13 application fee and the annual license fee shall be tendered as part of the complete license
14 application. If an application is made for a new license to be effective during the last six (6)
15 months of an annual license period, the license fee shall be one-half (1/2) of the license fee.

16 **6.280.070 Grant or denial of a Nightlife Premises license.**

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18 A. The Division Director, in consultation with other City departments, shall make a
19 determination whether the applicant's completed application, including the applicant's responses
20 to the questionnaire, appears reasonably adequate to prevent violations of the Nightlife Premises
21 Operating Standards.

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23 B. Within thirty (30) days of the filing of a complete application for a license or any
24 renewal thereof, the Division Director shall grant or deny the license, or communicate to the
25 applicant in writing additional information the applicant must submit before the Division
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1 Director can make a final decision regarding the application. If the Division Director requests
2 additional information, he or she shall grant or deny the application within fifteen (15) days of
3 the receipt of such additional information. All denials shall be in writing, and shall state specific
4 facts and conclusions supporting the denial.

5 C. The Division Director shall grant the license or any renewal thereof unless he or she
6 makes one or more of the following findings:

- 7 1. The premises of the proposed nightlife premises do not comply with any State,
8 King County or City health, safety, zoning or fire law;
- 9 2. The applicant's responses to the license application questionnaire are not
10 reasonably adequate to prevent one or more violations of this chapter, including the
11 Nightlife Premises Operating Standards;
- 12 3. The applicant has not complied with the requirements of SMC Section 6.280.040;
- 13 4. The applicant made a false statement or material omission in the application;
- 14 5. The applicant has not obtained all applicable City licenses or permits, or has failed
15 to pay applicable City taxes or fines;
- 16 6. The applicant, or any one of the applicant's partners, owners, officers, directors, or
17 the primary manager, owns, operates or manages a nightlife premises whose license is
18 currently suspended, or has owned, operated, or managed a nightlife premises which
19 has within a year preceding the receipt of the application:
 - 20 a. Had a nightlife premises license revoked or a retail liquor license canceled or
21 revoked;

- 1 b. Been determined by a court or administrative tribunal to constitute a public
2 nuisance; or
3 c. Ceased operations after a public nuisance action involving such business has
4 been commenced by the City or other governmental unit.

5 **6.280.075 Interim Nightlife Premises License.**

6 A. A person operating a nightlife premises as of the effective date of this ordinance may
7 apply for an interim nightlife premises license by submitting an application within sixty (60)
8 days of the effective date of this ordinance.
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10 B. The Division Director shall issue an interim license to an applicant who has submitted
11 a complete application unless the Division Director determines that the applicant has engaged in
12 practices that are or would be a violation of this chapter.
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14 C. An interim license shall authorize the licensee to operate a nightlife premises for a
15 period not to exceed twelve (12) months pending a full review of the applicant's application and
16 questionnaire. An interim license shall be subject to all other provisions of this chapter in the
17 same manner as a nightlife premises license.
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19 D. The Division Director shall complete a full review of the license application and
20 questionnaire within twelve (12) months of the issuance of an interim nightlife premises license
21 and shall issue a final decision either granting or denying the application for a nightlife premises
22 license. Upon issuance of the final decision, the interim license shall be canceled and have no
23 further effect.
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25 **6.280.080 Nightlife Premises Operating Standards.**
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1 Nightlife premises licensees are required to comply with the following Nightlife Premises
2 Operating Standards:

3 A. Violence. Licensees shall implement all reasonable measures to prevent violent
4 criminal activity on the premises and within the impacted public areas. Violent criminal activity
5 means conduct that would constitute a violation of SMC Section 12A.06.010 (Assault), SMC
6 Section 12A.06.025 (Fighting), or RCW Sections 9A.36.011, 9A.36.021, 9A.36.031, or
7 9A.36.041 (Assault).
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9 B. Occupancy Limits. Licensees shall comply with all applicable occupancy limits as
10 established in the Certificate of Occupancy issued by the City.

11 C. Excessive Noise. Licensees shall prevent noise violations as defined in this chapter.

12 D. Liquor Violations. Licensees shall comply with all applicable State laws pertaining to
13 the sale of alcohol.
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15 E. Reporting Criminal Activity. Licensees shall immediately report to the Seattle Police
16 Department all incidents of criminal conduct or reasonably suspected criminal conduct occurring
17 either on the premises or in impacted public areas. Licensees shall cooperate in any Seattle
18 Police Department investigation regarding any such criminal activity.
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20 F. Daily Closing Time Security. Licensees shall inspect the impacted public area
21 beginning when the premises closes and continuing for at least thirty (30) minutes after closing.

22 G. Licensees shall notify the Director within ten (10) days of any material changes in the
23 information provided in their application, including any material changes in the measures taken
24 by the licensee to prevent violations of these Nightlife Premises Operating Standards.

25 H. Licensees shall comply with state or local laws applicable to the premises.
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1 I. Licensees shall implement all reasonable measures to ensure that patrons comply with
2 state and local laws while on the premises.

3 J. Littering. Licensees shall implement all reasonable measures to prevent patrons and
4 prospective patrons from littering in impacted public areas, and shall clean up litter in those areas
5 daily between thirty minutes after closing time and 8:00 a.m. the following morning.

6 K. Posting of Public Notices. Licensees shall:

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- 8 1. Prominently display near the main entrance to the premises a telephone number
9 for the public to call to notify the operator of concerns regarding the operation of the
10 premises, including possible violations of this chapter or other laws. If the licensee
11 does not answer the telephone, the message must advise the public to call 911 if the
12 situation involves either any criminal activity or an emergency;
 - 13 2. Respond to all such calls within twenty-four (24) hours of receipt; and
 - 14 3. Post in a conspicuous place a copy of the nightlife premises license and a copy of
15 the Nightlife Premises Operating Standards.
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17 **6.280.090 Notice of Violation.**

18 If the Division Director has reasonable cause to determine that a nightlife premises
19 licensee has violated a provision of this chapter, the Division Director shall serve a Notice of
20 Violation (NOV) upon the licensee or agent designated pursuant to this chapter. The NOV shall
21 be served by personal service in the manner set forth in RCW 4.28.080 for service of a summons,
22 or sent by first class mail. Service shall be complete at the time of personal service, or if mailed,
23 three (3) days following the date of mailing. If a NOV sent by first class mail is returned as
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1 undeliverable, service may be made by posting the NOV at a conspicuous place on the nightlife
2 premises.

3 The NOV shall: 1) specify the provision the Division Director has reasonable cause to
4 believe the licensee has violated; 2) summarize the facts upon which the Division Director relies
5 in making that determination; and 3) state the penalty or other consequences of the violation. If a
6 licensee has received a prior NOV, the Division Director may also require a licensee to meet
7 with the Nightlife Premises Advisory Board.
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9 **6.280.100 Penalties for Violations.**

10 Upon finding a violation, the Division Director may by written notice to the licensee:

11 A. Issue a fine of up to \$50 (Fifty Dollars) for each violation of SMC Section 6.280.080
12 Subsection J or K; or
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14 B. Issue a suspension:

- 15 1. For a second violation of any combination of SMC Section 6.280.080 Subsections
16 A or B within any twenty-four (24) month period;
17 2. For a third violation of any combination of SMC Section 6.280.080 Subsections A,
18 B, C, D, E, F, G, H, or I within any twenty-four (24) month period; or,
19 3. If the licensee fails to timely respond to a Notice of Violation (NOV); fails to
20 correct the violation described in the NOV; or fails to identify the additional measures
21 the licensee has taken to prevent future similar violations.
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23 C. Each day for which a licensee fails to comply with subsection J or fails to post the
24 notices required by Subsection K shall constitute a separate violation. Each failure to timely
25 respond to a telephone call as provided in Subsection K shall constitute a separate violation.
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1 **6.280.110 Notice of License Suspension.**

2 A notice of suspension shall state the specific grounds for suspension and that the
3 suspension shall go into effect ten (10) days from the date of the notice unless the licensee,
4 within that time, delivers a written request for a hearing to the Hearing Examiner and to the
5 Director. The Director shall send a copy of the Notice of Suspension to the Washington State
6 Liquor Control Board.

7 **6.280.120 Periods of suspension.**

8 A. The first suspension of a Nightlife Premises license under this chapter for a violation
9 of SMC Section 6.280.080 Subsections C, D, E, F, G, H, or I shall be for a period of seven (7)
10 days. The second suspension within any twenty-four (24) month period for a violation of any
11 such subsection shall be for a period of up to thirty (30) days. The third or subsequent
12 suspension within any twenty-four (24) month period for a violation of any such subsection shall
13 result in revocation of the license.

14 B. The first suspension of a Nightlife Premises license under SMC Section 6.280.100 for
15 a violation of SMC Section 6.280.080 Subsection A or B shall be for a period of up to thirty (30)
16 days. The second suspension within any twenty-four (24) month period for a violation of SMC
17 Section 6.280.080, Subsection A shall result in revocation of the license.

18 C. Any person who has had a Nightlife Premises license revoked may not apply for
19 another Nightlife Premises license for a period of one (1) year from the date of such revocation.

20 D. For the purposes of this section, calculation of the period of twenty-four (24) months
21 shall not include any period of time during which the license was suspended.

22 **6.280.130 Response and Request for Administrative Review.**

1 A. A licensee or applicant may request that the Department conduct an administrative
2 review of the Division Director's: 1) denial of an interim nightlife premises license, 2) denial,
3 suspension, or revocation of a nightlife premises license or a renewal thereof; or 3) issuance of a
4 Notice of Violation.

5 B. A licensee's request shall be made in writing to the Division Director and must be
6 received within 10 business days after issuance of the decision to be reviewed. The applicant's
7 or licensee's response shall also state any facts in the denial, suspension, revocation, or NOV that
8 the licensee contests and any different or additional facts or other information, including any
9 additional measures the licensee has taken to correct the violation(s) or to prevent future
10 violations, that the applicant or licensee wants the Department to consider as part of the
11 administrative review.
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13 C. The applicant or licensee may also request in its response a meeting with either the
14 Division Director or the Board to discuss the license denial, suspension, revocation, or NOV and
15 the licensee's response. The Division Director shall meet with the licensee if the licensee has
16 made a timely request. A record of any such meeting shall be made and included in the official
17 record of the matter.
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19 D. If the applicant or licensee submits a response and a timely written request for an
20 administrative review, the Division Director shall review the denial, suspension, revocation, or
21 NOV and consider the information provided by the licensee in the response, may conduct a site
22 visit or otherwise investigate the facts, and shall make a written recommendation to the Director.
23 The Division Director may recommend that a denial, suspension, or revocation be reversed or
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1 affirmed, or that a NOV be withdrawn, modified, or affirmed. The factual record regarding the
2 matter is then closed.

3 E. If the applicant or licensee does not submit a timely written response and a request for
4 an administrative review: 1) the license denial, suspension, revocation, or NOV shall be final;
5 and, 2) the violation or violations described in the NOV shall be established as having occurred
6 as described in the NOV.

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8 **6.280.140 Director's Administrative Review.**

9 If the applicant or licensee has submitted a timely written request for an administrative
10 review, the Director shall review the record, including the NOV or license denial, suspension or
11 revocation; the applicant's or licensee's response; the recommendation of the Division Director;
12 and any information relied upon by the Division Director in making that recommendation. The
13 Director shall issue a final written decision based upon that review of the record, and may
14 reverse or affirm a denial, suspension, or revocation, and may withdraw, modify, or affirm a
15 NOV. The Director shall issue a decision that shall become final upon service in the manner set
16 forth in SMC Section 6.280.090.

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18 **6.280.150 Summary Suspension of Nightlife Premises License.**

19 The Director may summarily suspend a nightlife premises license as provided in SMC
20 Section 6.202.240.

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22 **6.280.160 Determinations.**

23 In making any decisions or determinations required or permitted by this chapter, the
24 Department may rely upon, among other things, written reports issued by law enforcement
25 officers in the course of their duties, and upon the type of civilian reports that would ordinarily
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1 be relied upon by law enforcement officers in making determination regarding probable cause.

2 Determinations regarding license applications, suspensions, revocations, and NOV's are
3 administrative in nature, and may be established by a preponderance of the evidence under all the
4 circumstances.

5 **6.280.170 Appeal.**

6 A. Denial of Interim License Application, Initial License Application, or Renewal
7 License Application or Suspension or Revocation of License.
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9 An applicant may appeal the Director's final denial of an interim license application, final
10 denial of an initial application for a license, or final denial of an application for a renewal
11 license. A licensee may appeal the Director's final suspension or revocation of their license. An
12 applicant or licensee may file an appeal with the Office of the Hearing Examiner only if the
13 applicant or licensee has exhausted the administrative review process provided in SMC Sections
14 6.280.130 and 6.280.140.
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16 Appeals must be made in writing and served on the Office of the Hearing Examiner and
17 on the Director no later than ten (10) days after the mailing of the notice of the Director's final
18 decision. Except for good cause shown, the Hearing Examiner shall commence a hearing within
19 forty-five (45) days of receiving a notice of appeal. The Hearing Examiner shall conduct the
20 hearing pursuant to the rules of procedure of the Hearing Examiner for the conduct of hearings.
21 The Director shall have the burden to prove by a preponderance of the evidence that grounds for
22 denial, suspension, or revocation exist. The Hearing Examiner shall affirm, vacate or modify the
23 Director's decision regarding the license denial, suspension, or revocation. If appealed, the
24 Director's decision denying a renewal license application or decision suspending or revoking a
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1 license shall be stayed until the Hearing Examiner renders a final decision. Summary
2 suspensions under SMC Section 6.202.240 shall not be stayed during appeal.

3 The Hearing Examiner shall issue a decision including findings of fact and conclusions of
4 law within fifteen (15) days of the close of the record.

5 A licensee aggrieved by the Hearing Examiner's final decision may seek judicial review
6 in King County Superior Court as provided in chapter 7.16 RCW. Such appeal must be filed
7 within fourteen (14) days of the date the Hearing Examiner's decision is issued.

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9 B. Appeal of Fines. A licensee may appeal a fine imposed pursuant to SMC Section
10 6.280.100 by filing a written request with the Director within ten (10) business days after the
11 date of the notice of violation and fine. The Director shall set a hearing date and time to be held
12 as soon as possible and not more than thirty (30) business days from the date of the request. The
13 Director shall render a final decision affirming or reversing the fine within ten (10) business days
14 after the conclusion of the hearing. The decision of the Director is a final City action on the
15 matter.
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17 **6.280.180 Term.**

18 All Nightlife Premises licenses, except interim licenses, shall expire on December 31st of
19 each calendar year.
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21 **6.280.190 Operating without a license--Penalties.**

22 A. Civil Penalty. Any person who operates a nightlife premises without a valid nightlife
23 premises license issued pursuant to this chapter shall be subject to a cumulative civil penalty of
24 \$1,000.00 (One Thousand Dollars) per day for each violation. The penalty imposed by this
25 section shall be collected by civil action brought in the name of the City. In any action for a
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1 penalty, the City has the burden of proving by a preponderance of the evidence that a violation
2 exists or existed.

3 B. Alternative Criminal Penalty. Any person who operates a nightlife premises without
4 a valid nightlife premises license issued pursuant to this chapter shall be guilty of a misdemeanor
5 subject to the provisions of SMC Chapters 12A.02 and 12A.04, except that absolute liability
6 shall be imposed for such a violation or failure to comply and none of the mental states described
7 in SMC Section 12A.04.030 need be proved to prosecute such violations criminally as an
8 alternative to the citation procedure outlined in this chapter. Each day that a person operates a
9 nightlife premises without a valid license shall constitute a separate violation of this section.
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11 **6.280.200 Rules.**

12 The Director may issue rules to implement and enforce the provisions of this chapter,
13 including but not limited to policies and procedures for granting, denying, or suspending a
14 nightlife premises license.
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16 **6.280.210 Severability.**

17 If any provision, section, subsection, subdivision, paragraph, sentence, clause or phrase
18 of this chapter shall be held void or unconstitutional, all other parts, provisions and sections of
19 this chapter not expressly so held to be void or unconstitutional shall continue in full force and
20 effect.
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