AN ORDINANCE of the City of Kent, Washington, providing for the licensing and regulation of public dances and dance halls, adding a new section 5.35 to Chapter 5 business license and regulations, establishing licensing requirements, penalties, establishing grounds for revocation of licenses and establishing an effective date, and amending Kent City Code Section 5.04.070, Ordinance 0.686, §10.

WHEREAS, the Kent City Council finds that unregulated public dance halls contribute to the problems associated with runaway children, alcohol and drug abuse by children; and

WHEREAS, the Kent City Council finds that the regulations set forth in this ordinance will help prevent the operation of public dance halls from contributing to such problems and that these regulations are necessary to protect the public health, safety and welfare, NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Kent City Code Chapter 5, entitled "Business License and Regulations" is hereby amended by adding a new Section 5.35 entitled "Public dances and Dance Halls" as follows:

5.35.010 DEFINITIONS. For the purpose of this Chapter and unless the context plainly requires otherwise, the following definitions are adopted:

A. "Public dance" means any dance that is open to the public and which: (1) is conducted for a profit, direct or indirect; or (2) requires a monetary payment or contribution from the persons admitted. The term "Public Dance" does not include a banquet, party or celebration conducted for invited guests which is not open to the public, and for which no fee or membership contribution is required. Additionally, the term "public dance"
as used in this ordinance does not include any dance held by a licensed liquor establishment, or at any location wherein alcoholic beverages are legally served, sold, dispensed, or permitted on the premises; it being the intention that said dances be governed by the appropriate provisions of RCW Chapter 66, and all other pertinent laws and regulations including but not limited to Kent City Code Section 5.04.070.

B. "Dance hall" means any place or premise where a public dance is conducted, including but not limited to all hallways, bathrooms and all adjoining enclosed areas accessible to the public or any patron during the dance.

C. "Person" includes one or more natural persons, corporations, partnerships or unincorporated associations or other forms of business organization.

D. "Police Chief" means the Kent Police Chief or his designee.

E. "Fire Chief" means the Kent Fire Chief or his or her designee.

5.35.020 LICENSE REQUIRED - FEE - RENEWALS

A. It is unlawful for any person to conduct a public dance within the City of Kent without first having obtained and being the holder of a valid and subsisting license for such activity, to be known as a "public dance license". The annual fee for a public dance license is $150.00. A limited license for a single event is $25.00 per event day, but no more than 3 limited licenses shall be obtained in any calendar month or more than 6 limited licenses in any calendar year unless the full annual license has been paid.

B. The entire annual license fee shall be paid for the applicable calendar year regardless of when the application for license is made, and shall not be prorated for any part of the year except that if the original application for license is made subsequent to June 30th, the license fee for the remainder of that year shall be one-half of the annual license fee. Annual license
renewals shall be obtained and paid in full by January 1st of each calendar year.

C. There shall be assessed and collected by the Finance Director an additional charge of fifty dollars ($50.00), on renewal applications not made when due, including payment of the required fee, on or before January 31st of each calendar year.

D. Failure to obtain license renewal and to pay all required fees pursuant thereto by January 31 shall result in suspension and/or revocation of said license pursuant to Kent City Code 5.35.120(i).

5.35.030 LICENSE - EXEMPTION AND WAIVER OF PAYMENT

A. A license is not required under this chapter if the dance is conducted by the City of Kent or by a public and/or private school licensed by the State of Washington.

B. The Police Chief or his or her designee shall have the right to waive the requirement of payment of the license fee in the case of any dance open to the public which is conducted for a charitable purpose by a nonprofit, tax exempt organization, corporation or association recognized as exempt from Federal income tax pursuant to the Internal Revenue Code. Application for a fee waiver shall be made no less than thirty days prior to the date of the dance for which a license is sought.

5.35.040 LICENSE - APPLICATION

A. Applications for any license pursuant to this chapter shall be submitted in writing to the Finance Director upon such forms as the Police Chief may prescribe at least thirty (30) days prior to the first dance. In addition to other information requested, application forms shall contain the name and place of residence of the applicant and owner, if different than applicant, the address and description of the premises to be licensed and the time and date of the dance or dances to be held. The Finance Director must be notified within 10 days of any changes in the information required in this Section.
Director must be notified within 10 days of any changes in the information required in this Section.

B. Applicant shall be required to maintain comprehensive liability insurance for the establishment with minimum coverage in the amount of $1,000,000. Certificate of insurance as evidence of coverage shall be provided to the City at time of application. Applicant shall provide to the City notification of any changes in such coverage within fifteen (15) days of any changes. This shall not apply to applicants for single events.

C. All applications shall be referred to the Police Chief who shall conduct an investigation as to the truth of the statements contained therein and investigate all other matters pertaining to the criteria for license approval set forth in this chapter. The Chief of Police shall confer with the Finance Director as to the results of such investigation, as well as his or her other findings as to whether the criteria for obtaining a public dance license have been met.

5.35.050 LICENSE - CRITERIA FOR APPROVAL - REAPPLICATIONS

A. The Finance Director shall grant a license unless he or she finds that one or more of the following conditions exist:

1. The building, structure, equipment or location of the business or dance for which license is sought does not comply with the requirements or fails to meet the standards of the applicable health, zoning, building, fire safety or other applicable laws and ordinances of the State of Washington, King County, and the City of Kent or the requirements of this chapter;

2. The applicant or any of the applicant’s employers, officers, directors, partners, operators, employees or any other person involved in the operation or business of the dance or dance hall has been convicted within the last five years of:

   a) A felony involving a crime of violence (as defined in RCW 9.41.010(2) as it now exists or as
hereafter amended) or any felony under RCW Chapters 9A.44, 9A.64, 9A.88 or 69.50; or

b) A crime involving prostitution, promoting prostitution, prostitution loitering or lewd conduct, or assault on a juvenile.

B. Any applicant denied a license may reapply and be granted a license if the applicant can show that the basis for such denial no longer exists, or may appeal such denial pursuant to Chapter 5.35.070, below.

C. Applications for renewal of a license issued under this Chapter shall be processed and considered according to the criteria for initial issuance of the license.

5.35.060 CONDITIONS UPON ISSUANCE OF LICENSE – REVIEW OF OPERATIONS.

A. At the time of granting a license or license renewal pursuant to this Chapter, the Finance Director, when authorized by City Code or State or Federal law, rule or regulation may impose such conditions as necessary to adequately protect the public health, safety and general welfare.

B. The Police Chief shall review the operations of all public dance halls approximately six months after commencement of business to determine whether additional or revised conditions are needed to protect the public welfare. The licensee shall be given notice of all proposed additional conditions and an opportunity to be heard concerning the conditions pursuant to Kent City Code 5.35.070.

5.35.070 APPEAL FROM DENIAL OR CONDITIONS

A. When the Finance Director refuses to grant or renew a license, or grants or renews a license with conditions, the City shall notify the applicant in writing of the same and shall inform the applicant of his or her right to a hearing before the Hearing Examiner by the applicant filing a written notice of appeal which
contains a specific statement of the reasons for the appeal with the Hearing Examiner within 10 days of the date of the notice from the Finance Director.

B. If the applicant timely files a notice of appeal, the applicant shall be afforded a hearing before the Hearing Examiner at which time the applicant shall be afforded an opportunity to show that the conditions imposed are arbitrary and capricious or that the reasons for denial of the license do not justify the denial. After the hearing the Examiner shall determine whether the applicant has shown reason to revise the conditions or to issue the license and shall issue its final findings of fact, conclusions of law and decision within 10 days of the date of the hearing.

Any aggrieved party may appeal the Hearing Examiner’s Decision by seeking, within 14 days of the date of the Examiner’s decision, a writ of review from the King County Superior Court.

5.35.080 SECURITY PERSONNEL REQUIRED. It shall be the obligation of every person licensed under this Chapter to insure that an adequate number of qualified security personnel are employed and in attendance before, during, and following each public dance as is necessary in order to maintain order and insure compliance with the laws of the State of Washington and ordinances of the City of Kent. A minimum of two security persons shall be required for up to the first two hundred persons in attendance; thereafter one additional security person for each additional one hundred persons in attendance shall be required.

In the event the Police Chief of the City of Kent determines extra security is necessary because of past incidents at the dance hall which threaten public safety, health or welfare, or threats or evidence of future incidents that threaten public safety, health or welfare, the Chief shall have the right to require that security personnel for the establishment include a minimum of two persons trained as law enforcement personnel, which may include off duty police officers approved by the Police Chief. Additionally, the Chief may require that at no time shall fewer than 25 percent of the security personnel have training as
law enforcement personnel or similar training as approved by the Police Chief. Those security personnel not having law enforcement training must have received formal training in crowd control by an agency not associated with the licensee as approved by the Chief of Police. Decrease in hours of operation, and/or an increase in security personnel may also be required. Any decision of the Chief to require extra security personnel may be appealed to the Hearing Examiner in the manner described in Kent Code 5.35.070.

5.35.090 LITTER CONTROL - SECURITY FOR CLEANUP

A. Prior to issuance of any public dance license a cash security deposit in the amount of $200 or bond in the amount of $1,000.00 shall be submitted to the Finance Director as security for the cleanup of all litter resulting from any public dance authorized by the license. In the event the licensee fails to clean up all litter on any public or private property which results from any public dance conducted by the licensee within twenty-four hours of the end of the dance, the City may cause such litter to be cleaned up and pay the costs of the clean up out of the security funds. Litter resulting from the public dance shall be limited to that occurring within a one block radius of the location of the dance unless clearly identified with the dance. In the event the cost of the clean up exceeds the amount of funds on deposit, the licensee shall pay such excess costs.

B. In the event funds are expended out of a security deposit required by this Section, the licensee shall, within five days of receipt of written notice of such expenditure, submit the amount necessary to replenish the security fund to the amount of the full security deposit. No renewal license shall be issued unless the full amount of the security deposit for litter clean up is on deposit with the City at the time of the application for renewal. If funds sufficient to replenish the fund are not received within 5 days of receipt of written notice then the dance hall license shall be suspended until sufficient funds are received. Within the 5 days of receipt of notice of deficiency, the dance hall licensee may inform the Finance Director in writing of circumstances justifying nonpayment of additional funds which
information shall be considered by the Finance Director and the licensee shall not be suspended if the nonpayment is justified.

C. If the funds for security for cleanup are fully expended within any one week, or if the funds for cleanup fall below $100.00 twice in any quarter or five times in any year, then the Finance Director shall require an additional cash deposit of not less than $200.00 and not more than the greatest one week expenditure for cleanup during the prior year.

D. Upon termination of all activities authorized by a public dance license and clean up of all litter resulting from such activity, the remainder of all funds deposited as security for litter clean up shall be refunded to the licensee, without interest.

5.35.100 LOITERING ON PREMISES PROHIBITED. It shall be the obligation of each person issued a license under this Chapter to use best efforts to prevent loitering of all persons on the premises of the dance hall, including all parking lot and driveway areas used by patrons of the dance hall. "Loitering" shall not include walking between the entrance to the public dance and parked vehicles, nor shall it include the act of waiting in line to gain admission to the dance including both inside and outside the dance hall premises. The licensee shall use every best effort to cooperate with the Kent Police Department for removal of loiterers by enforcement of criminal trespass charges against said loiterers. Failure to cooperate by the licensee shall be grounds for possible revocation and/or suspension of license.

5.35.110 AREA FOR WAITING FOR ADMISSION, ENTRANCE AND SECURITY

A. Any dance hall shall provide an area, which area is not part of the public right-of-way or sidewalks, where patrons may wait for admission to the dance hall. This area shall be clearly marked. The number of persons permitted in this area shall be limited to a number of persons reasonably likely to obtain admission to the dance hall within 30 minutes considering the normal rate of turnover of patrons within the dance hall. At
no time shall the number of patrons waiting exceed the permitted occupancy load of the dance hall as established by the Fire Code and Fire Marshal. The dance hall operator shall provide security personnel to control the waiting area one hour before opening and throughout the hours of operation. The security personnel shall use their best efforts to prevent persons seeking admission but not permitted in the waiting area from congregating on the public right-of-way and sidewalks, and the security personnel shall require such persons to leave the property under control of the dance hall.

B. All persons admitted to the dance hall shall be admitted through a single entrance so that the occupancy load can be monitored.

C. The licensee and management of any dance hall shall prohibit any person under the influence of intoxicants or drugs from entering the dance hall and shall expel any person under such condition if found within the premises.

5.35.120 REVOCATION OR SUSPENSION OF LICENSE

A. After giving notice to the licensee of the right to a hearing pursuant to the procedures set forth in this ordinance, and conducting a hearing if a timely request is filed, the Finance Director may suspend or revoke any license issued pursuant to this chapter where one or more of the following conditions exist:

1. The license was procured by fraud or false representation of material fact in the application or in any report or record required to be filed;

2. The building, structure, equipment or location of the business or dance for which the license was issued does not comply with the requirements or fails to meet the standards of the applicable health, zoning, building, fire and safety laws and ordinances of the State of Washington, King County, and the City of Kent, or the requirements of this chapter;
3. The applicant or any of the applicant’s officers, directors, partners, operators, or with the applicant’s actual or imputed knowledge employees or any other person involved in the operation of the dance or dance hall has been convicted within the last five years of:

   a) A felony involving a crime of violence (as defined in RCW 9.41.010(2) as it now exists or as hereafter amended) or any felony under RCW Chapters 9A.44, 9A.64, 9A.88 or 69.50; or

   b) A crime involving prostitution, promoting prostitution, prostitution loitering or lewd conduct, or assault on a juvenile.

4. The licensee or his or her employee, agent, partner, employer, director, officer or manager has knowingly allowed or permitted:

   a) A felony involving a crime of violence (as defined in RCW 9.41.010(2) as it now exists or as hereafter amended) or any felony under RCW Chapters 9A.44, 9A.64, 9A.88 or 69.50 to occur in or upon the dance hall premises;

   b) A crime involving prostitution, promoting prostitution, prostitution loitering or lewd conduct, or assault on a juvenile to occur in or upon the dance hall premises;

   c) Any unlawful act of sexual intercourse, sodomy, oral copulation, or masturbation to be committed in or upon the dance hall premises; or

   d) The dance hall premises to be used as a place in which unlawful solicitations for sexual intercourse, sodomy, oral copulation or masturbation occur; or

   e) The possession or consumption of liquor by persons under the age of twenty-one years, in or upon dance hall premises; or
f) The giving or supplying of liquor to any person under the age of twenty-one years; or

g) The use by any person in or upon the dance hall premises of marijuana, cocaine or any other controlled substance (as defined in RCW 69.50.101(d) as now exists or as hereafter amended) not prescribed by a licensed physician for use by the person possessing or using the substance.

h) Violation of any condition placed upon a license issued pursuant to this chapter, of this ordinance, or of any other applicable law or ordinance, which the Finance Director finds constitutes an unreasonable interference with surrounding land uses or is otherwise unreasonably detrimental to the public welfare;

i) Failure to timely file and pay any admissions tax or other fee owing to the City of Kent.

j) Allowing any person under the influence of intoxicants or drugs onto or to remain within the premises.

B. If the Finance Director finds that any of the conditions set forth in this Chapter exists and that the existence of such condition constitutes a threat of immediate and serious injury or damage to person or property, and in the case of conditions which may be eliminated by the licensee, that notice of the conditions has been given to the licensee and at least 24 hours have expired without the elimination of such conditions, the Finance Director may immediately suspend any license issued under this Chapter without prior opportunity to be heard. In this event the licensee shall be entitled to appeal the decision to the Hearing Examiner in accordance with KCC 5.35.070 of this chapter. The notice of immediate suspension of license given pursuant to this subsection shall include a statement of the conditions found to exist that constitutes a threat of immediate and serious injury or damage to persons or property, and shall also inform the applicant of his or her right to appeal within ten (10) days of the date of the notice by filing a written notice of appeal, which
contains a statement of the specific reasons for the appeal, with the City Clerk.

C. Revocation of any license issued under this Chapter shall be accomplished pursuant to KCC 5.35.070.

D. Any decision of the Finance Director to revoke or suspend a dance hall license may be appealed to the Hearing Examiner within 10 days of the Finance Director’s decision. The appellant shall pay a $75.00 fee as a condition of filing such appeal.

E. Any aggrieved party may appeal the Hearing Examiner’s decision rendered under parts B and D of this section, by seeking, within 10 days of the Examiner’s decision, a writ of review from the King County Superior Court.

5.35.130 AGE RESTRICTIONS.

A. No person conducting a public dance or maintaining a public dance hall shall knowingly allow persons under the age of sixteen years to enter or remain in the dance hall without a parent or legal guardian present.

B. It is the responsibility of the licensee and any other person conducting and/or operating a public dance to require identification showing the age of each person admitted. A valid Washington State Drivers License or photo identification card issued by the Washington State Department of Licensing shall be the only acceptable forms of proof of age.

C. Every person who knowingly or recklessly allows a person to enter or remain in violation of this section shall be guilty of a misdemeanor.

D. Any person who affirmatively misrepresents his or her age to obtain admission to or permission to remain in any public dance in violation of this chapter shall be guilty of a misdemeanor.
5.35.140 HOURS OF OPERATION. No public dance shall be operated past the hour of 2:00 a.m., with the exception that Saturday nights dances may operate until 3:00 a.m. Sunday morning.

5.35.150 PUBLIC DANCE - READMISSION FEE. No person conducting or operating a public dance or public dance hall shall permit any person, other than an employee, to leave the dance or dance hall and return unless that person pays a readmission fee equal to the original price of admission.

5.35.160 ACCESS - BY POLICE AND FIRE OFFICERS. All police and fire officers of the City of Kent shall have free access to public dances and dance halls when a dance is being conducted, for the purpose of inspection and to enforce compliance with the provisions of this chapter and other applicable City, County and State health, zoning, building, fire and safety ordinances and laws.

5.35.170 LICENSE LIMITED TO LICENSEE AND LOCATION. Any license issued under the provisions of this chapter shall apply to a single licensee and to a single location only and shall not be transferable to other locations or to other persons.

5.35.180 APPLICABILITY. All dance halls required to be licensed by this ordinance within the City of Kent shall be regulated by the provisions of this chapter, regardless of whether a public dance license or business license was obtained from the City prior to or after the effective date of the ordinance codified in this chapter.

5.35.190 VIOLATION. It shall be a misdemeanor to operate or manage a public dance in violation of the provisions of this chapter, without having first obtained a valid license, or renewal; or to operate or manage a public dance when one’s license to do so has been suspended or revoked.

Section 2. Kent City Code Chapter 5.04.070 is amended as follows:
5.04.070. PREMISES WHERE DANCING IS PERMITTED. The license fee for taverns, cocktail lounges, and any other place of business wherein dancing is permitted and where alcoholic beverages are legally served, dispensed, sold, or permitted on the premises, shall be fifty dollars per year, payable quarterly in advance. (O.686, §10)

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 4. Effective Date. This ordinance shall take effect and be in force five (5) days from and after its passage, approval and publication as provided by law.

DAN KELLEHER, MAYOR

ATTEST:

MARIE JENSEN, CITY CLERK

APPROVED AS TO FORM:

SANDRA DRISCOLL, CITY ATTORNEY

PASSED the 7th day of March, 1989.
APPROVED the 8th day of March, 1989.
PUBLISHED the 12th day of March, 1989.
I hereby certify that this is a true copy of Ordinance No. 78-39, passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

MARIE JENSEN, CITY CLERK
(SEAL)