

AGENDA

COMMITTEE ON ADMINISTRATION/INFORMATION SYSTEMS

April 4, 2006
Aldermen O'Neil, Lopez,
Smith, Forest, DeVries

5:15 PM
Aldermanic Chambers
City Hall (3rd Floor)

- 1 Chairman O'Neil calls the meeting to order.
2. The Clerk calls the roll.
3. Appeal of the denial of a peddlers license.
A motion is in order to enter non-public session under the provisions of RSA 91-A:3II(c).

A roll call vote is required on the motion.

4. Ordinance amendments:

“Amending Chapter 111 Amusements of the Code of Ordinances of the City of Manchester by amending Section 111.71 Curfew For Entertainment, by adding the outdoor entertainment curfew and renumbering sections 111.71-111.73.”

Ladies and Gentlemen, what is your pleasure?

TABLED ITEM

A motion is in order to remove the following item from the table for discussion.

5. Communication from Thomas Arnold, Deputy City Solicitor, providing an update on the status of cable casting origination points.
(Tabled 11/22/2005 pending further information from the Board of School Committee.)
6. If there is no further business, a motion is in order to adjourn.

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OFFICE OF THE CITY CLERK
Business Licensing & Enforcement Div.
One City Hall Plaza
Manchester, NH 03101
Tel: (603) 624-6348 Fax: (603) 624-6481

Committee on Administration
Office of the City Clerk
One City Hall Plaza
Manchester, NH 03103

HEARING REQUEST FORM

Date: 3/30/06

To Whom It May Concern:

I would like to request a hearing before the Committee on Administration to discuss the decision to deny/revoke my application for a Peddlers License in the city of Manchester.

Sincerely,

MARC MIGNAULT
93 SALEM STREET
MANCHESTER, NH 03109



CITY OF MANCHESTER

Office of the City Clerk



Leo R. Bernier
City Clerk

Carol A. Johnson
Deputy City Clerk

Paula L-Kang
Deputy Clerk
Administrative Services

Matthew Normand
Deputy Clerk
Licensing & Facilities

Patricia Piecuch
Deputy Clerk
Financial Administration

MEMORANDUM

TO: Committee on Administration/Information Systems
Ald. O'Neil, Lopez, Smith, Forest, DeVries,

FROM: Matthew Normand 
Deputy Clerk

DATE: March 30, 2006

RE: Amendment to Entertainment Curfew

The attached amendments to Chapter 111 Amusements of the Code of Ordinances represent a "house-cleaning" change, primarily to the curfew for entertainment. The recently passed Noise permit and accompanying standards established a new curfew (10:00 p.m.) for *outdoor* entertainment. A previous curfew, intended for *indoor* entertainment, already exists and allows activities until 2:00 a.m. on most nights of the week. Since this ordinance does not specify indoor entertainment, an obvious conflict between the two sections was created. The Solicitor's Office agrees that this amendment should clear up any confusion with the curfew.

You should note that the ordinance amendments also include the sections involving the Noise permitting process. These sections have only been renumbered to allow for future expansion of the chapter and no substantive changes have been made. If you have any questions or concerns prior to your meeting, you may reach me at 624-6348. Thank you.

City of Manchester
New Hampshire

In the year Two Thousand and Six

AN ORDINANCE

"Amending Chapter 111 Amusements of the Code of Ordinances of the City of Manchester by amending Section 111.71 Curfew For Entertainment, by adding the outdoor entertainment curfew and renumbering sections 111.71-111.73."

Page 1

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

- I. Amending Section 111.71 Curfew For Entertainment by inserting new language as bolded (**bold**). Sections of Chapter 111 not regular type remain unchanged.

111.70 CURFEW AT DANCES.

No public dancing shall be permitted between the hours of 2:00 a.m. and 2:00 p.m. on Sunday, 1:00 a.m. and 12:00 p.m. on Monday, or 2:00 a.m. and 12:00 p.m. Tuesday, Wednesday, Thursday, Friday, and Saturday.

111.71 CURFEW FOR ENTERTAINMENT.

(A) No exhibit of natural or artificial curiosities, theatrical performances, or other shows shall be permitted **outdoors after 10:00 p.m., as specified in section 111.75(B)(1), or indoors** between the hours of 2:00 a.m. and 9:00 a.m. on Sunday, 1:00 a.m. and 9:00 a.m. on Monday, or 2:00 a.m. and 9:00 a.m. Tuesday, Wednesday, Thursday, Friday, and Saturday, except as may be permitted by the Committee on Administration.

(B) The Committee on Administration may approve applications for Entertainment Licenses if applications meet the criteria listed below. The criteria are as follows:

- (1) The location of the event shall not substantially impact a residential zone or district by excessive noise, traffic or other negative impact;
- (2) The proposed event shall not be more than two consecutive calendar days in length;
- (3) The sponsors, applicants, or management of the event are of sufficiently good character to leave no substantial doubt that the proposed event shall be operated in strict accordance with all state or municipal rules, regulations, ordinances or statutes which are rationally related to the issuance of this license; and
- (4) The event must be held in accordance with all applicable municipal building, zoning, health, police, and fire rules, regulations and ordinances and applicable rules, regulations, and statutes of the State of New Hampshire.

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BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

111.75 NOISE ACTIVITIES; PURPOSE.

The purpose of this section is to establish standards that will eliminate and reduce unnecessary noise at outdoor venues throughout the city which may be physically harmful or otherwise detrimental to individuals and the community in the enjoyment of life, property and the conduct of business.

(A) No person shall conduct an event that involves the amplification of sound or speech above 60 dB(A) for the purpose of presenting a musical selection, show, performance or concert at an outdoor venue within the limits of the city without obtaining a noise permit issued by the office of the City Clerk.

(B) The following general guidelines shall apply to the issuance of a noise permit. These guidelines are not all inclusive as other criteria may be established that is reasonable and prudent to protect the public or limit the anticipated detrimental impact of the events noise upon the community:

(1) All outdoor venues shall have a curfew of 10:00 p.m. Any event which exceeds this curfew shall be assessed the penalty identified in §111.99(C)(4) for each 15-minute period beyond this curfew.

(2) The office of the City Clerk shall not grant a permit to conduct noise at level greater than 100 dB(A) to be measured 100 feet from the noise source.

(3) Any sound board or mix position present at an event shall be placed at 100 feet from the noise source.

(4) The office of the City Clerk may require any applicant to be monitored for sound levels to ensure compliance with this chapter. Monitoring may be conducted by a representative of the city or an independent third party using an appropriate sound level meter. In the event of third party monitoring, all expenses associated with the sound monitoring shall be assumed by the applicant.

(5) In granting a license, the office of the City Clerk may impose additional conditions or stipulations it deems necessary and proper to preserve the intent of this chapter.

(6) Should an application for a noise permit be denied, the applicant can appeal the decision to the Committee on Administrative/ Information Systems of the Board of Mayor and Aldermen.

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BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

111.76 PERMIT FEES.

Each application for a noise permit shall include an application fee of \$200 cash, money order or bank check made payable to the city.

111.77 PROHIBITED CONDUCT.

The following conduct is prohibited:

- (A) Provide any false or inaccurate information to any city board, committee, commission or any employee of the city, in an attempt to deceive or otherwise avoid compliance with this subchapter.
- (B) Hinder, obstruct, delay, resist, interfere, or attempt to interfere with any authorized persons while in the performance of their duties under this ordinance.
- (C) Emit or cause to be emitted any noise which exceeds the established limits in § 111.75(B)(2).
- (D) Violate any subsection of § 111.75.
- (E) Conduct an event that involves the amplification of sound or speech above 60 DBA for the purpose of presenting a musical selection, show, performance or concert at an outdoor venue in the city without obtaining a license from the office of the City Clerk pursuant to § 111.75(A).

111.99 PENALTY.

- (A) Any person who shall fail to comply with any of the provisions of this chapter or who shall violate any of the provisions set forth herein, unless a penalty is specified elsewhere, shall be subject to the penalties as set forth in § 10.99 of this code of ordinances.
- (B) (1) Any person who commits an act prohibited or made unlawful by §§ 111.40 through 111.55 or §§ 111.65 through 111.77 of this chapter or fails to perform any act required by such subchapter shall be guilty of a violation. Each act of violation, or in the case of continuous violation, and every day upon which any such violation shall occur shall constitute a separate offense. In addition, if the court finds for the city, the

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BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

city shall recover its costs of suit including reasonable experts' fees, attorney fees, and necessary investigative costs. Parties held responsible for violations of §§ 111.40 through 111.55 or §§ 111.65 through 111.77 shall include corporate officers, partners, or owners as identified on the business license application or as may be otherwise identified by the city as a result of any related investigation.

(2) The Police Department is hereby authorized to seize any amusement device located within the city in contravention of any of the provisions of §§ 111.40 through 111.55. Upon such seizure the Police Department shall notify the owner of the seized devices, or the person in whose place of business the amusement device was placed, of such seizure and the reason therefor. The Police Department shall hold any such seized devices for a period of not less than ten days from the date of the required notification to the owner or operator of the premises. During this period the owner or operator may redeem any such machine by correcting the violation of this division which led to such seizure. Any amusement devices which are so seized and which are not redeemed within the ten-day period described in this division (B)(2) shall become the property of the city. Costs for transportation and storage charges will be billed to the owner of any amusement devices seized and must be paid before the release of the devices from city storage. The city will be held harmless for any damage occurring during the act of confiscation, transportation, and storage of each device.

(C) Violations of § 111.77, Prohibited Conduct shall follow the penalty schedule below:

(1) First offense. The licensee or his or her representative shall be informed of the noise ordinance and corrective measures to achieve compliance. This shall constitute an official warning and should be accomplished in writing if possible.

(2) Second offense. A citation shall be issued to the licensee or his or her representative in the amount of \$250.

(3) Third offense. A citation shall be issued to the licensee or his or her representative in the amount of \$500.

(4) Fourth and subsequent offenses. A citation shall be issued to the licensee or his or her representative in the amount of \$1,000.



**City of Manchester
Office of the City Solicitor**

One City Hall Plaza
Manchester, New Hampshire 03101
(603) 624-6523 Fax (603) 624-6528
TTY: 1-800-735-2964
Email: solicitor@ci.manchester.nh.us

*pending former
wife from schools
3/7/06 - remained tabbed*
Thomas R. Clark
City Solicitor

Thomas I. Arnold, III
Deputy City Solicitor

Daniel D. Muller, Jr.
~~Kenneth R. Bernard~~
Michele A. Battaglia
~~Marc van Zanten~~

September 27, 2005

Committee on Administration/Information Systems
c/o Leo Bernier, Clerk
One City Hall Plaza
Manchester, New Hampshire 03101

Re: Comcast Cable Origination Points

Gentlemen:

The Committee has requested that Dr. Grace Sullivan and I provide an update on the status of cable casting origination points.

As you are aware Amendment Number 1 to the City of Manchester, New Hampshire Cable Television Renewal Franchise dated June 9, 2003 provided that Comcast would "construct, install and activate hard-wire origination capability to (1) the Manchester School Department Administration Building; (2) the Gill Stadium; (3) the JFK Memorial Coliseum and (4) the Verizon Wireless Arena ..."

The origination points at Gill Stadium and JFK Memorial Coliseum have been installed and are currently operational.

On March 31, 2004 the Superintendent of Schools wrote to the Mayor and requested that origination points be installed at the Manchester West High School gym and athletic facility and the Manchester Memorial High School gym and athletic facility rather than at the school administration building and the Verizon Wireless Arena. On April 20, 2004 the Mayor wrote to Bryan Christensen of Comcast to inquire as to whether Comcast would be willing to install origination points at West High School and Memorial High School without cost.

On August 3, 2004 Comcast wrote to Mike Colby and gave cost estimates for installing the origination points at the School Administration Building and Verizon Wireless Arena (\$28,818.50) and for installing origination points at West High School and Memorial High School (\$52,006.00). By letter from Bryan Christensen to Mayor Baines dated July 4, 2005 Comcast indicated that the additional cost of installing

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origination points at West High School and Memorial High School (\$4,669.50) could come from the PEG Access/Telecommunication funding payment of \$50,000.00 to be made on or before July 15, 2005.

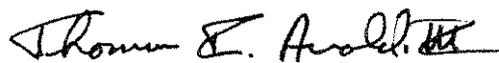
As Comcast is unwilling to absorb the extra cost of installing origination points at West High School and Memorial High School the matter was referred to the School Department to locate funding for the additional cost.

Recently Dr. Sullivan has agreed to fund the extra cost involved in changing the origination points.

As the location of the four origination points that Comcast is to install is provided for in Amendment Number 1 to the Cable Franchise Agreement, changing two of the origination points will require a vote of the Board of Mayor and Aldermen. Consequently, this committee could make a recommendation to the Board of Mayor and Aldermen that the two origination points be changed, should it choose to do so.

Please let me know if I can provide any further information or assistance.

Very Truly Yours



Thomas I. Arnold, III
Deputy City Solicitor

TIA/hms