

Chapter 330: CABARET LAW

[HISTORY: Adopted by the Town Board of the Town of Greenburgh 4-9-1975 by L.L. No. 4-1975. Amendments noted where applicable.]

GENERAL REFERENCES

Building, fire and plumbing — See Ch. 100.

Alarm systems — See Ch. 300.

Alcohol control — See Ch. 305.

Noise — See Ch. 380.

§ 330-1 Purpose; intent.

[Amended 6-22-1977 by L.L. No. 10-1977]

The Town Board hereby finds that cabarets within the Town of Greenburgh create unique impacts in regard to municipal services, traffic patterns and fire and safety conditions and upon the residents of the surrounding areas. The purpose of this chapter is to minimize the adverse impacts of such cabarets and yet permit their existence, thus providing for the economic and social welfare, health, peace and morals of the people of the Town of Greenburgh. The provisions of this chapter shall be liberally construed for the accomplishment of that purpose.

§ 330-2 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

CABARET

Any room, place or space in the Town where, for gain or profit, live or mechanically reproduced music is provided in connection with dancing or where, for gain or profit, any musician, group of musicians, floor show or similar live entertainment is provided. A full-service restaurant providing full-course meals with waiter and waitress service and which has, as part of the occupancy and services offered, one musical instrument and one musician to play said instrument between the hours of 6:00 p.m. to 12:00 midnight for the specific purpose of providing background music for the benefit of patrons seated at tables and wherein dancing is prohibited shall not constitute a cabaret for the purposes of this chapter; provided, however, that such full-service restaurant shall notify the Town Clerk before it expects to offer such services to its patrons.

[Amended 6-22-1983 by L.L. No. 3-1983]

CONNECTION WITH CRIMINAL ELEMENTS

That state of affairs wherein an applicant or an officer of, principal stockholder of, person having a substantial interest in or management responsibility for a corporation or other organization wherein such organization is the applicant, directly or as a parent, subsidiary or affiliate, has such association, acquaintance or business association with parties having been convicted of a felony or crime involving moral turpitude or who are otherwise involved in unlawful activities, whether convicted or not, to the extent that the fencing of stolen merchandise or illegally obtained funds, the procuring of prostitutes, the transfer or sale of narcotics or illegal substances is made more feasible or likely or the protection of those of tender years from such unwholesome influences is rendered more difficult. A determination by the United States Department of Justice that a person is engaged in or affiliated with a nationwide crime organization shall be prima facie evidence, so far as the issuance of a license hereunder, that such person has connections with criminal elements.

[Added 6-22-1983 by L.L. No. 3-1983]

EMPLOYEE

A person employed in any capacity or title in connection with a cabaret, including the licensee and any and all persons responsible for the control or management thereof.

PERSON

Includes natural persons of either sex, corporations, partnerships, associations, joint-stock companies, societies and other legal entities of any kind capable of being sued, whether acting by themselves or by servant, agent or employee. The singular number shall include the plural.

§ 330-3 License required.

It shall be unlawful for any person to conduct, maintain or operate a cabaret unless the room, place or space wherein the same is conducted, maintained or operated is licensed in the manner prescribed herein.

§ 330-4 Application for license.

A. Any person desiring to procure a cabaret license shall make application therefor to the Town Clerk on the form provided. Such form shall contain, but shall not be limited to, the following information:

[Amended 6-22-1977 by L.L. No. 10-1977]

- (1) Name, address, date of birth and social security number of applicant.
- (2) Whether applicant is an individual, partnership, corporation or other association.
- (3) If a partnership, the names, addresses, dates of birth and social security numbers of all persons having an interest in the partnership.
- (4) If a corporation, the names, addresses and dates of birth and social security numbers of all officers, directors and managers.
- (5) If a corporation, the name of each stockholder having 10% or more of the total outstanding shares of any class of stock. There shall also be given the number of shares held by the stockholder and his percentage of the total outstanding shares of stock.
- (6) If any of the persons named in Subsection A(1), (3), (4), (5) or (18) is a citizen of a country other than the United States, state the names and country of citizenship.
[Amended 6-22-1983 by L.L. No. 3-1983]
- (7) State how long each applicant, member of partnership or officer of corporation has been a resident of the Town of Greenburgh, and place of previous employment.
- (8) State whether any person mentioned in Subsection A(1), (3), (4), (5) and (18) has been convicted of a felony or misdemeanor and, if so, give full particulars.
[Amended 6-22-1983 by L.L. No. 3-1983]
- (9) State whether any person mentioned in Subsection A(1), (3), (4) and (18) has been engaged individually as an operator or manager of a cabaret or similar business within the last five years and, if so, give the name of such business, its address and the length of time such person operated such business.
[Amended 6-22-1983 by L.L. No. 3-1983]
- (10) State whether any person mentioned in Subsection A(1), (3), (4) and (18) has ever had a previous cabaret or similar license revoked or suspended and whether such person has been convicted of operating or managing such a business without a license and, if so, give full particulars.
[Amended 6-22-1983 by L.L. No. 3-1983]
- (11) State the name of the cabaret under which the applicant will operate and the location.
- (12) State the nature of the entertainment to be produced.
- (13) State the area of the floor space to be used by the public, the maximum number of rooms to be occupied by the public, the maximum number of tables in each occupied room and the number of entrances and exits.
- (14) State whether any part of the premises to be used will be used for a hotel, rooming house or lodging house, and if so, give full particulars.

- (15) Affix to the application two copies of a scale drawing showing the dimensions of all occupied rooms, the locations of all tables, the width of aisles between tables, the width of aisles between tables and walls, posts, poles, bars, stages and other fixtures, appurtenances and appliances and the location of all exits, exit signs and emergency lighting.
 - (16) State the County Health Department permit number.
 - (17) State whether cabaret activities shall be conducted every day of the week or be limited to Friday, Saturday and Sunday, or be limited to some other specified day or days of the week.
 - (18) Name, address, date of birth and social security number of each and every manager of the premises.
[Amended 6-22-1983 by L.L. No. 3-1983]
 - (19) In addition to the foregoing, applicant shall supply any and all relevant information concerning its application to operate a cabaret when requested to do so by authorized officials of the Town, including but not limited to and as applicable certified copies of partnership agreements, certificates of incorporation, proof of ownership, financial records, income tax returns, acquisition agreements, payroll records and the like.
[Added 6-22-1983 by L.L. No. 3-1983]
- B. Said application shall be signed and sworn to, before a notary public or other officer authorized to administer an oath, by all persons coming under **§330-4A(1), (3) and (4)**.
- C. All persons described in **§330-4A(1), (3) and (4)** shall be fingerprinted before their application for a cabaret license is submitted. An application shall be deemed incomplete and be automatically denied if any of the persons enumerated in said subsections have not submitted their fingerprints with said application. Fingerprints shall be submitted upon the form or forms adopted by the Town Board.
- D. Said application shall be referred to the Chief of Police, the Fire Marshal and the Building Inspector for proper investigation of the applicant and the premises. As part of such investigation, the Chief of Police, the Fire Marshal and the Building Inspector shall determine whether such applicant and premises conform to the requirements of this chapter and all laws and regulations of the State of New York and the Town of Greenburgh. The investigation of the Chief of Police shall also include an examination into the present and projected noise, traffic and public safety impacts of the proposed cabaret. At the conclusion of such investigation, the Chief of Police, the Fire Marshal and the Building Inspector shall render a written report to the Town Clerk with their recommendation as to whether or not such application should be granted. The Chief of Police, in making such recommendation, shall investigate the applicant's character and conduct as a law-abiding person and shall consider past operations, if any, convictions of felonies and crimes involving moral turpitude and connections with criminal elements, as defined herein.
[Amended 6-22-1977 by L.L. No. 10-1977; 6-22-1983 by L.L. No. 3-1983]
- E. Within 30 days after the receipt of the reports and recommendations of the Chief of Police, the Fire Marshal and the Building Inspector, the Town Clerk shall determine whether or not to grant such application. However, in no event may the Town Clerk grant such cabaret license if:
[Amended 6-22-1977 by L.L. No. 10-1977]
- (1) The Chief of Police, the Fire Marshal or the Building Inspector recommends that such license not be issued; provided, however, that, if the recommendation of the Chief of Police is based on his investigation of the applicant's connection with criminal elements, as defined herein, the Town Clerk shall retain discretion to deny or approve the license application, merely taking into account the recommendation of the Chief of Police with respect thereto.
[Amended 6-22-1983 by L.L. No. 3-1983]
 - (2) The applicant or the premises does not conform to all requirements of this chapter and all laws and regulations of the State of New York and the Town of Greenburgh.
 - (3) In the opinion of the Town Clerk, the applicant shall be undesirable or incapable of properly conducting a cabaret.
 - (4) Any person having an interest in said premises has been convicted of a misdemeanor or a felony which, in the judgment of the Town Clerk, renders the applicant unfit or undesirable to conduct a cabaret.
 - (5)

The applicant or, if a corporation, the holders of a majority of its capital stock and any persons having an interest in such business have been convicted of violating any laws or ordinances relating to public morality or decency or to the sale of intoxicating liquor within five years preceding the date of such application.

- F. If an application is denied by the Town Clerk, notice shall be given to the applicant within 10 days, whereupon the applicant may appeal such denial within 30 days to the Town Board. If the applicant appeals such a denial by giving notice thereof in accordance with this subsection, the applicant must be prepared to go to a hearing on the appeal within 30 days of the giving of the notice of appeal, and, if applicant delays the hearing on the appeal beyond such thirty-day period, the provisions of Subsection K of this section shall no longer be applicable, and all cabaret activities shall cease forthwith. [Amended 6-22-1977 by L.L. No. 10-1977; 6-22-1983 by L.L. No. 3-1983]
- G. The Town Board shall be required to hold a public hearing upon every appeal from the denial of a cabaret license by the Town Clerk within a reasonable time. All parties shall be given reasonable notice of such hearing, which notice shall include a statement of the time, place and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing is to be held; a reference to the particular sections of the statutes and rules involved, where possible; and a short and plain statement of matters asserted. Upon application of any party, a more definite and detailed statement shall be furnished whenever the Town Clerk finds that the statement is not sufficiently definite or not sufficiently detailed. The finding of the Town Clerk as to the sufficiency of definiteness or detail of the statement or its failure or refusal to furnish a more definite or detailed statement shall not be subject to judicial review. Any statement furnished shall be deemed, in all respects, to be a part of the notice of hearing. [Added 6-22-1977 by L.L. No. 10-1977; amended 6-22-1983 by L.L. No. 3-1983]
- H. ^[1]At such hearing, all parties shall be given an opportunity to present written argument on issues of law and an opportunity to present evidence and such argument on issues of fact; provided, however, that nothing contained herein shall be construed to prohibit the Town Board from allowing parties to present oral argument within a reasonable time. In fixing the time and place for hearings and oral argument, due regard shall be had for the convenience of the parties. [Added 6-22-1983 by L.L. No. 3-1983]
- [1]: *Editor's Note: Former Subsection H, regarding terms and conditions on licenses, was redesignated to become Subsection M pursuant to L.L. No. 3-1983, adopted 6-22-1983.*
- I. Unless precluded by statute, disposition may be made of any hearing by stipulation, agreed settlement, consent order, default or other informal method. [Added 6-22-1983 by L.L. No. 3-1983]
- J. At any hearing held pursuant to this section, the applicant, as well as any other interested parties, including any resident of the Town of Greenburgh, may state his views. After the conclusion of said hearing and within a period of 30 days, the Town Board shall be required to find whether the determination of the Town Clerk should be upheld or whether the Town Board should, in the exercise of its discretion, direct the issuance of such cabaret license. [Added 6-22-1983 by L.L. No. 3-1983]
- K. When an applicant has made timely and sufficient application for a new license, with reference to any cabaret activity of a continuing nature for which such applicant had been issued a cabaret license in the previous year, the existing license shall not expire until the application has been finally determined by the Town Clerk and, in the case of an application denied, until the appeal, if any, from such denial has been determined and a decision rendered by the Town Board after public hearing thereon. [Added 6-22-1983 by L.L. No. 3-1983]
- L. Anything contained in Subsection K hereof to the contrary notwithstanding, if the recommendations of any one of the officials described in Subsection D of this section contain findings that the public health, safety and welfare imperatively require emergency action and the termination of all cabaret activities pending such action, the Town Clerk shall incorporate such findings in an order summarily suspending the license effective on the date specified in such order or upon service of a certified copy of such order on the licensee, whichever shall be later, pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined. [Added 6-22-1983 by L.L. No. 3-1983]
- M.

In the event that the Town Clerk determines to grant an application for a cabaret license, the Town Clerk may impose such terms and conditions on said license so as to effectuate the purposes of this chapter. If the applicant is aggrieved by such terms and conditions, the applicant may appeal the determination of the Town Clerk to the Town Board within 30 days of such determination. The procedure for such appeal shall be as set forth in § 330-4G above.

[Added 6-22-1977 by L.L. No. 10-1977]

§ 330-5 License fee; expiration; renewal.

- A. The fee for each cabaret license shall be \$250, payable to the Town Clerk upon submission of the application. In addition, a check or money order for \$12 for each person fingerprinted, payable to the New York State Division of Criminal Justice Services, shall accompany the application.

[Amended 6-28-1978 by L.L. No. 9-1978; 7-14-1982 by L.L. No. 3-1982]

- B. All licenses issued between the 10th day of January and the ninth day of January in the next succeeding year, inclusive of any year, shall expire on the ninth day of January of each succeeding year.

[Amended 7-14-1982 by L.L. No. 3-1982]

- C. There shall be no renewals. At the expiration of the license, a new application shall be made pursuant to § 330-4.

§ 330-6 Suspension or revocation of license.

[Amended 6-22-1983 by L.L. No. 3-1983]

- A. A license may be suspended or revoked by the Town Clerk for violation of this chapter, state law or upon the grounds that disorderly, obscene or immoral conduct is permitted on the licensed premises or is occasioned in the vicinity of such premises as a result of its existence. In the event that a license is so suspended or revoked pursuant to this section, notice shall be given to the applicant within 10 days, whereupon the applicant may appeal such denial within 30 days to the Town Board. The procedures for such appeal shall be as set forth in § 330-4G through M hereof, and such cabaret shall only be permitted to operate in accordance therewith. In no event shall cabaret operations be permitted pending the appeal and determination in the event there has been a finding pursuant to § 330-4L hereof.

- B. Whenever any license shall be suspended or revoked, no refund of any unearned portion of the fee shall be made, and at least six months from the time of such suspension or revocation shall elapse before another license shall be issued for the same premises. If the license of any premises is twice suspended or revoked within a period of one year, a new license shall not be issued to such applicant or any person enumerated in § 330-4A(3), (4) and (18) for a period of at least one year from the date of the second suspension or revocation.

§ 330-7 Transfer of license; supplemental license.

- A. No licenses are transferable.

- B. Where there is any change regarding any natural person enumerated in § 330-4A(3), (4) and (5) or any natural person attains a status enumerated in § 330-4A(3), (4) or (5) or where there is a change in the nature of the activities to be conducted in such cabaret, the applicant shall cause to be filed with the Town Clerk, within 10 days thereof, a supplemental application setting forth the name or names of all persons so affected, along with all other information required to be furnished by such natural person under § 330-4 and a filing fee of \$25.

[Amended 6-22-1977 by L.L. No. 10-1977; 7-14-1982 by L.L. No. 3-1982]

- C. Said supplemental application shall be referred to the Chief of Police, the Fire Marshal and the Building Inspector for a report and recommendation pursuant to the provisions of § 330-4D.

[Amended 6-22-1977 by L.L. No. 10-1977]

- D. Within 30 days after the receipt of the reports and recommendations of the Chief of Police, the Fire Marshal and the Building Inspector, the Town Clerk shall determine whether or not to grant such supplemental application. However, in no event may the Town Clerk grant such supplemental license if any of the conditions set forth in § 330-4E are present.

[Amended 6-22-1977 by L.L. No. 10-1977]

- E.

If a supplemental application is denied by the Town Clerk, notice shall be given to the applicant within 10 days, whereupon the applicant may appeal such denial within 30 days to the Town Board. The procedures for such appeal shall be as set forth in § 330-4G through M hereof, and such cabaret shall only be permitted to operate in accordance therewith. In no event shall cabaret operations be permitted pending the appeal and determination in the event that there has been a finding pursuant to § 330-4L hereof.

[Added 6-22-1977 by L.L. No. 10-1977; amended 6-22-1983 by L.L. No. 3-1983]

§ 330-8 Posting of license.

Every person licensed in accordance with the provisions of this chapter shall immediately post such license and keep the same posted while in force in a conspicuous place on the premises mentioned in the application for such license.

§ 330-9 Replacement of license.

[Amended 7-14-1982 by L.L. No. 3-1982]

Whenever a new license is required because of a change in the name of a currently licensed cabaret or whenever a license is lost or destroyed without fault on the part of the holder or his agent or employee, a duplicate license, in lieu thereof, may be issued upon notarized written request and the payment of a fee of \$25.

§ 330-10 Hours of operation.

[Amended 6-22-1977 by L.L. No. 10-1977; 7-14-1982 by L.L. No. 3-1982; 4-11-1984 by L.L. No. 6-1984]

Premises licensed hereunder shall not exercise cabaret privileges between the hours of 4:00 a.m. and 9:00 a.m.; provided, however, that in the event that Town officials receive complaints that the operation of the cabaret after 2:00 a.m. causes annoyance, disturbance, results in noise or other inconvenience and, upon investigation, such officials determine that such complaints are justified, the cabaret shall no longer be permitted to operate to 4:00 a.m., but said operation shall cease at 2:00 a.m.

§ 330-11 Rental of premises for cabaret activities.

A. No premises in the Town of Greenburgh shall be leased or hired out for the purpose of conducting cabaret activities thereon unless the person intending to lease or hire such premises shall have applied for and received from the Town Clerk a permit to do so. Such permit shall be issued after the Town Board is satisfied that no fraudulent solicitation of moneys, disorderly or immoral behavior or behavior calculated to disturb the public peace or safety will be conducted on such premises if the permit is granted.

[Amended 6-22-1977 by L.L. No. 10-1977]

B. Application for such a permit shall be made on a form to be provided by the Town Clerk's office. Such permit shall be good for one day, including those hours of the following day as hereinafter set forth, and the fee for such permit shall be \$25.

[Amended 7-14-1982 by L.L. No. 3-1982]

C. A permit issued pursuant to the provisions of this section may, at the discretion of the Town Board, provide that such cabaret activities may be continued between the hours of 2:00 a.m. and 8:00 a.m. However, if cabaret activities are to be carried on beyond the time of 8:00 a.m., a new permit shall be required for such activities.

[Amended 7-14-1982 by L.L. No. 3-1982]

§ 330-12 Prohibited acts.

A. No person owning, managing, operating or conducting a cabaret shall allow or permit any person employed by him in the capacity of an entertainer or servant or otherwise to approach or accost any guest to dance with or have refreshments with such employee, as aforesaid, during the hours of his employment; nor shall any person in the premises of a cabaret approach any person who is an employee of the owner, manager or operator in the capacity of an entertainer or servant or otherwise during the hours of his employment to dance with or have refreshments with such guest.

B.

It shall be unlawful for any cabaret to have, permit or maintain any boxes or booths closed by any door, screen, curtain or other device. It shall also be unlawful for any cabaret to have, permit or maintain any box or booth with an entrance thereto in any side other than the side which faces the center of the main room.

- C. It shall be unlawful for the owner, proprietor, manager or person in charge of any place licensed under the provisions of this chapter to employ as an entertainer in such place any person who is not at least 18 years of age and of good moral character.
- D. It shall be unlawful for the owner, proprietor, manager or person in charge of any place licensed under the provisions of this chapter, or for any employee of said place, to harbor, admit, receive or permit to be or remain in and about any such place, any lewd or dissolute person, any common prostitute, any drunken or boisterous person or any person whose conduct tends in any way to corrupt the public morals.
- E. It shall be unlawful for any person to conduct himself in a boisterous manner or to use any profane, obscene or indecent language in or about any place licensed under the provisions of this chapter or the hallways or entrance thereof.
- F. It shall be unlawful for any person while dancing in any place licensed under the provisions of this chapter to conduct himself in an obscene manner as defined in the Penal Law of the State of New York.
- G. After sunset every place licensed under the provisions of this chapter shall be lighted or illuminated by electricity, provided that the intensity of such illumination shall at no time be less than three footcandles at a plane three feet above the floor at all parts of said place. It shall be unlawful for the owner, proprietor, manager or person in charge of such place to admit any patron thereto after sunset until said place is illuminated, as provided herein. Such lighting or illumination shall be maintained throughout the entire time during which such cabaret shall be open or entertaining patrons and until such cabaret shall be cleared and closed.
- H. It shall be unlawful to give or permit the giving of, in any cabaret, any entertainment or exhibition of a lewd, suggestive, vulgar or immoral type, or to use therein any indecent or obscene language, or to sing any song of any lewd or vulgar character, or to behave in any manner tending to corrupt the public morals. Where any of the aforementioned activities are defined by the Penal Law of the State of New York, such definition shall be controlling.
- I. It shall be unlawful for any person to bring into or have in his or her possession or partake of any intoxicating liquors in any place designated in this chapter as a cabaret. This shall not apply to intoxicating liquors lawfully sold in the cabaret under the provisions of the Alcoholic Beverage Control Law.
- J. No female person shall be permitted to appear for the purpose of entertainment in any premises licensed hereunder with breasts uncovered or so thinly covered or draped as to permit one to see through same, and no person shall be permitted to appear in any premises licensed hereunder with the genital or buttocks area exposed or so thinly covered or draped as to permit one to see through such covering or drape.
- K. It shall be unlawful for any person licensed under the provisions of this chapter to permit on the premises any entertainment, amplified by a mechanical device, of such an intensity, character and duration as to disturb the peace, tranquillity and good order of the people of the Town of Greenburgh.
- L. It shall be unlawful for any person licensed under the provisions of this chapter to permit any disorderly, noisy, riotous or tumultuous conduct or loitering about the licensed premises.
- M. It shall be unlawful for any cabaret licensed under the provisions of this chapter to permit outside doors to be open at any time during the hours of operation, except:
[Added 6-22-1977 by L.L. No. 10-1977]
 - (1) For the opening of such doors to permit the entrance or exiting of customers or employees.
 - (2) Where the Fire Marshal or the Police Department orders otherwise.
- N. Notwithstanding any other provision of law contained in this chapter or any other chapter of the Code of the Town of Greenburgh, any person, firm or corporation licensed to do business as a cabaret in the Town of Greenburgh shall have an approved sprinkler system installed in the premises by July 1, 1984, and no person, firm or corporation shall operate a cabaret in the Town of Greenburgh after that date without an approved sprinkler system therein.

[Added 6-22-1983 by L.L. No. 3-1983^[1]]

[1]: *Editor's Note: This local law also provided that former Subsection N be redesignated to become Subsection O.*

- O. It shall be unlawful to operate a cabaret unless the premises are soundproofed or provision is made so that no amplification or excessive noise is audible beyond the property lines of the parcel upon which the cabaret is situated.

[Added 6-22-1977 by L.L. No. 10-1977]

§ 330-13 Building occupancy; firesafety requirements.

- A. No license shall be issued for any cabaret where all or any part of the area to be used and occupied, other than rest rooms, by patrons or customers of said cabaret is below grade level or above the first floor.
- B. All cabarets which have a permitted occupancy of 50 or more people shall have auxiliary rechargeable battery lighting of at least thirty-minute duration. All auxiliary lighting shall be located at a reasonable distance above the floor and below the ceiling so that it will not be obstructed by tables, chairs, chandeliers or other decorations or appliances. The Bureau of Fire Prevention shall determine the number, location and direction of all such emergency lighting.
[Amended 7-14-1982 by L.L. No. 3-1982]
- C. All fire exits shall have sufficient exterior lighting to allow safe egress therefrom.
- D. All cabarets must comply in all respects with the requirements of the New York State Building Construction Code.^[1]
[1]: *Editor's Note: See Ch. 100, Building, Fire and Plumbing.*
- E. All cabarets with kitchen facilities must have fire protection in all ducts and hoods as required by the New York State Building Construction Code and the National Fire Protection Association, Bulletin 96A.
[Amended 7-14-1982 by L.L. No. 3-1982]
- F. All cabarets shall have fire appliances at proper locations in accordance with the National Fire Protection Association.
- G. Any person, firm or corporation obtaining its first license for a cabaret after July 1, 1977, or a cabaret presently licensed which is presently or hereafter closed for the purpose of making alterations, improvements or additions or for any other type of work requiring a building permit, or if presently or hereafter closed as a result of building or fire code violations shall have an approved sprinkler system.
[Amended 3-23-1977 by L.L. No. 6-1977; 6-22-1977 by L.L. No. 10-1977]
- H. Flame spread ratings of all decorations, including but not limited to rugs, carpets, pads, tablecloths, wall hangings and draperies, in all cabarets shall meet the minimum requirements of the New York State Building Construction Code. National Fire Prevention Association certificates shall be forwarded on demand to the Bureau of Fire Prevention.^[2]
[2]: *Editor's Note: See Ch. 100, Building, Fire and Plumbing.*
- I. The maximum number of persons permitted in any cabaret shall be established by the Bureau of Fire Prevention in accordance with Chapter 8 of the National Fire Prevention Association Code No. 101 or the applicable codes and regulations of the New York State Department of Labor, whichever is more restrictive. The Fire Marshal shall post in conspicuous location(s) on the premises a notice or notices of maximum occupancy, and no owner, manager or person in charge or in control of such a cabaret shall permit such premises to be occupied by more persons than are set forth in such notice.
[Amended 7-14-1982 by L.L. No. 3-1982]
- J. All cabarets shall have a minimum of two exits which shall be as distant from each other as is reasonably possible.
- K. Any duct which has a vent into any portion of a cabaret and which also has a vent into any other room of that cabaret or any room of any other premises, whether or not owned or operated by the licensee, shall be equipped with fire dampers. Any such duct shall also be provided with a smoke detection system in accordance with the New York State Building Construction Code.
- L. All fire exits in all cabarets are required to have panic hardware. No other locking device shall be permitted on fire exits at any time.

M. Heat and smoke detection devices.

[Added 3-23-1977 by L.L. No. 6-1977^[3]]

- (1) All cabarets licensed by the Town of Greenburgh shall contain, in each storage room, attic, basement and any other concealed locations, one or more smoke detection devices approved by the Underwriters' Laboratories, Inc. (UL), in such numbers and in such locations as determined by the Fire Prevention Bureau of the Town of Greenburgh.
[Amended 5-22-2013 by L.L. No. 2-2013]
- (2) All cabarets licensed by the Town of Greenburgh shall contain, in each room with kitchen facilities, boilers, furnaces or other heat-producing units, one or more heat detection devices approved by the Underwriters' Laboratories, Inc. (UL), in such numbers and at such locations as are determined by the Fire Prevention Bureau of the Town of Greenburgh.
- (3) Effective January 10, 1983, all cabarets licensed by the Town of Greenburgh shall have automatic alarm systems.^[4] All required smoke- and heat-detecting devices throughout the entire occupancy as provided for in Subsection **M(1)** and **(2)** above shall be continually wired to sound an alarm in the assembly areas and shall at all times be in good working order.
[Amended 7-14-1982 by L.L. No. 3-1982]

[4]: *Editor's Note: See Ch. 300, Alarm Systems.*

(4) Compliance requirements.

- (a) All owners of cabarets described in Subsections **A**, **B** and **C** above shall, on January 1 of each calendar year, file with the Fire Prevention Bureau of the Town of Greenburgh an affidavit in the form required by the Fire Prevention Bureau. The affidavit shall set forth the number and location of all smoke and heat detection devices in any cabaret owned by the person signing the affidavit and shall certify that such devices have been examined and found to be in proper working condition on a date no more than 60 days prior to the signing of the affidavit.
- (b) Failure to file any affidavit as provided in Subsection **M(4)(a)** above shall be a misdemeanor which is punishable by a fine not to exceed \$100 for each day beyond January 1 of any calendar year in which the owner of a cabaret described in Subsection **A**, **B** or **C** above fails to provide the required affidavit.
- (c) The making of any false statement in an affidavit filed pursuant to Subsection **M(4)(a)** hereinabove shall be a misdemeanor and, in addition to any other civil or criminal penalty imposed by any other law, such false statement shall be punishable by a fine not to exceed \$500 and/or imprisonment for up to six months.

[3]: *Editor's Note: This local law also redesignated former Subsection M as Subsection N.*

N. All requirements of this § 330-13 must be met by all applicants for licenses and license holders to the full satisfaction of the Fire Prevention Bureau, and all said requirements shall be strictly enforced by the Building Inspector and Fire Marshal.

§ 330-14 Special permits.

- A. A party not currently licensed for a cabaret may apply for a special permit to conduct activities permitted under this chapter on special occasions. Such activities shall not be conducted for more than two days and shall comply in all respects with all applicable laws and ordinances.
[Amended 6-22-1983 by L.L. No. 3-1983]
- B. Application for such special permit shall be made on a form provided by the Town Clerk's office on at least 14 days' notice and shall specifically designate activities to be conducted under this special permit if granted. The fee for such application is \$25.

§ 330-15 Inspections.

Any police officer and all members of the Bureau of Fire Prevention shall be permitted to inspect such licensed premises during business hours to ensure that the provisions of this chapter are being complied with by the licensee.

§ 330-16 Exemptions.

[Amended 5-23-1979 by L.L. No. 5-1979]

- A. The provisions of this chapter shall not apply to the activities conducted in a building or buildings owned by any church, public school, firehouse or clubhouse which is not conducted for gain or profit and which is located on a plot of 25 acres or more, or a clubhouse which is not conducted for gain or profit on a lot of less than 25 acres, if exemption therefor is granted by the Town Board.
- B. The provisions of this chapter shall not apply to a cabaret, as defined in § 330-2, where there is no food or beverage service, nor are there tables in the room, place or space, and all patrons are seated on chairs permanently affixed to the floor in horizontal rows with appropriate aisles for ingress and egress.

§ 330-17 Emergency provisions.

[Amended 7-14-1982 by L.L. No. 3-1982]

- A. When, in the opinion of the Fire Marshal, Building Inspector or any police officer of the Town of Greenburgh, there exists a violation of this chapter which creates imminent danger to public safety, the Fire Marshal, Building Inspector or any police officer of the Town of Greenburgh may order the owner:
 - (1) If it is a violation which by its nature can be corrected immediately, to cease or abate said violation.
 - (2) If it is a violation which by its nature requires a period of time to correct, to evacuate all patrons from the premises.
- B. Upon failing to comply with such an order, the person or persons so ordered shall be guilty of a misdemeanor and subject to immediate arrest for violation of this chapter and any applicable provisions of the Penal Law of the State of New York. In order to protect the public health, safety and welfare, the Fire Marshal, Building Inspector or any police officer of the Town of Greenburgh may order such cabaret evacuated, and the cabaret license of such cabaret shall be immediately suspended; provided, however, that within 24 hours or the next business day following such evacuation, whichever is later, there shall be a finding by the Building Inspector, Fire Marshal or Police Chief that emergency conditions exist that require the continuation of the suspension until a hearing is provided or other action taken as provided for under this chapter. In the event that there is not such a finding, the cabaret shall be permitted to operate pending a hearing or other action taken as provided for under this chapter.

§ 330-18 Penalties for offenses.

- A. Any person who conducts a cabaret without a license or permit required by this chapter or who makes fraudulent statements on an application therefor or who, having had his license or permit suspended or revoked, continues to conduct cabaret activities on the licensed premises shall be guilty of a misdemeanor and shall be subject to a fine not to exceed \$500 or imprisonment not to exceed 30 days, or both.
- B. Except as otherwise provided, any violation of the provisions of this chapter shall constitute a violation and subject the offender to a fine not to exceed \$250 or 15 days' imprisonment, or both.