

Comment of Alan D. Sugarman to CityLand Article Hunt, K. (2022, June 6). Proposed Zoning Changes Cut Remnants of Cabaret Law “Foot” Loose. CityLand.

Thank you for this article. At the time of Cabaret Law repeal in 2017, it was understood by knowledgeable commentators that the restrictions in the Zoning Resolution would make the repeal of little meaning. In the nearly five years since, the Department of City Planning has, it appears, not even analyzed the relevant issues, which is why in August 2021, a resolution was introduced in the City Council to request a report from the Department of City Planning. The concern now is that the reform of dancing regulations is only one of many issues to be addressed by the Department according to the Mayor's office, and may well fall by the wayside.

Further, as acknowledged by the Office of Nightlife and knowledgeable commentators, there remains the overriding arbitrary regulation by the New York State Liquor Authority which requires licensees to state whether there will be patron dancing or live music in the so-called Method of Operation - which then is noticed to the local Community Board. A licensee operating in ways not stated by the Method of Operation faces revocation of the license. For this reason, there are few if any venues in districts where dancing is allowed which, even after repeal, have gone back to the SLA to revise their methods of operation to include dancing. Many venues just allow dancing sub-rosa as I have discovered in auditing some venues known to offer dancing. The SLA has no statutory authority for its heavy handed regulation of dancing in venues under 600 patrons (all dancing?)

There are also two areas of concern related to live music. First, the SLA and Community boards are allowed to require the licensees to state the type of live music - whether "rock band, acoustic, jazz" raising obvious First Amendment issues. The second area of concern that affect the livelihood of musicians are provisions in the Zoning Resolution that do not allow live music if there is a cover charge: how are venues supposed to pay for the musicians without cover charges?

Finally, there are issues of whether the term "dancing" is constitutionally vague, as discussed by Judge Roslynn R. Mauskopf, EDNY, in her 2016 order in the Muchmore case. A single regulation addressing "dancing" to apply to 500 patrons rock clubs as well as 20 patrons tango dancing in a small restaurant back room is destined to be wanting.

For a history of the NYC zoning dancing and music regulations, I recommend the book by Professor Paul Chevigny, *Gigs: Jazz and the Cabaret Laws in New York City*.

Thank you again for your coverage.

Alan Sugarman <http://dance-regulation.zortmusic.com/>.

Filename: Document2  
Directory:  
Template: Normal.dotm  
Title:  
Subject:  
Author: Alan New Changes  
Keywords:  
Comments:  
Creation Date: 6/18/22 6:47:00 PM  
Change Number: 1  
Last Saved On:  
Last Saved By:  
Total Editing Time: 3 Minutes  
Last Printed On: 6/18/22 6:57:00 PM  
As of Last Complete Printing  
Number of Pages: 1  
Number of Words: 457  
Number of Characters: 2,298 (approx.)