

Adult Entertainment
Rules and Regulations
for the
Board of Liquor License Commissioners
for
Baltimore City



Published January 1, 2016

BOARD OF LIQUOR LICENSE COMMISSIONERS
FOR BALTIMORE CITY

231 East Baltimore Street
6th floor
Baltimore, Maryland 21202

General Information..... 410-396-4377
Executive Secretary..... 410-396-3480
Deputy Executive Secretary..... 410-396-4385
Chief Inspector..... 410-396-4379
Inspectors..... 410-396-4384
Front Office..... 410-396-4378

TO ALL LICENSEES:

This book is published by the Board of Liquor License Commissioners for Baltimore City to acquaint all licensees, their employees, and the general public with the Rules and Regulations governing the operation of adult entertainment establishments in Baltimore City.

All adult entertainment licensees and their employees are responsible to abide by these Rules. All licensees and their employees are responsible to abide by these Rules. These Rules and Regulations shall be effective and made applicable as to all matters filed by and with the Board of Liquor License Commissioners for Baltimore City after January 1, 2016.

Benjamin Neil, Esq.
Chairman

Douglas Trotter
Commissioner

Elizabeth Hafey, Esq.
Commissioner

Harvey Jones
Alternate Commissioner

Michelle Bailey-Hedgepeth
Executive Secretary

Thomas R. Akras, Esq.
Deputy Executive Secretary

As authorized by Art. 2B §12-203.1, the regulatory authority over adult entertainment licenses has been vested in the Board of Liquor License Commissioners for the City of Baltimore (“Board”). The City of Baltimore through Balt. City Code Art. 15 §1 has outlined the processes for licensing, standard of operations, and administrative sanctions, which guide the Board’s decision making process concerning adult entertainment licenses. Both through State and local law, the Board has been authorized to adopt rules and regulations to carry out the operations of adult entertainment licenses in Baltimore City.

**Chapter 1
Definitions Terms, and Adopting Rules and Regulations**

Rule 1.01 – Definitions (As per Balt. City Code Art. 15 §1-1)

(a) **Adult entertainment** means live entertainment, (i) in which individuals appear for public view in a state of nudity or partial nudity; (ii) that is intended to provide sexual stimulation or sexual gratification; (iii) that is distinguished or characterized by an emphasis on material that depicts, describes, or relates to:

(I) Human genitals in a discernible state of sexual stimulation or arousal; or

(II) Acts of human masturbation, sexual intercourse, sodomy, or physical contact with an individual’s clothed or unclothed genitals, pubic area, buttocks, or, if the individual is female, breast; or

(III) Entertainment that, applying contemporary standards, the average individual would find, taken as a whole, appeals to the prurient interest.

(IV) Adult entertainment does not include a licensee who operates a theatre, a concert hall, an art center, a museum, or a similar establishment that is primarily devoted to the arts or theatrical performances, when the performances presented express matters of serious literary, artistic, scientific, or political value.

(b) **Adult-entertainment business** means any cabaret, lounge, night club, modeling studio, or other establishment that offers its customers adult entertainment.

(c) **Board** means the Board of Liquor License Commissioners for Baltimore City.

(d) **Dancer** means: (i) any person who, whether as an employee, an independent contractor, or an invitee of the business who provides adult entertainment; or (ii) any hostess, entertainer, bartender, or patron who appears nude or partially nude.

(e) **Includes** or **Including** means by way of illustration and not by way of limitation

(f) **Liquor License Rules and Regulations** means the Liquor License Rules and Regulations as issued by the Board of Liquor License Commissioners for Baltimore City.

(g) **Nudity** means: (i) the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering; (ii) the showing of the female breast with less than a fully opaque covering over any part below the top of the nipple; and (iii) the depiction of covered male genitals in a discernibly turgid state.

(h) **Partial nudity** means a state of dress in which opaque clothing covers no more than: (i) the human male or female genitals, pubic area, or buttocks; (ii) the female breasts below the top of the nipples; and (iii) portions of the body covered by supporting straps or devices.

(i) **Patron** means any customer, client, or other invitee on the premises of adult-entertainment business.

(j) (1) **Person** means: (i) an individual; (ii) a receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind; or (iii) a partnership, firm, association, corporation, or other entity of any kind. (2) **Person** does not include, unless otherwise expressly provided, a governmental unit.

Rule 1.02 – Mandatory, prohibitory, and permissive terms.

(a) **Mandatory terms:** “Must” and “shall” are each mandatory terms used to express a requirement or to impose a duty.

(b) **Prohibitory terms:** “Must not” and “may not” are each mandatory negative terms used to establish a prohibition.

(c) **Permissive terms:** “May” is permissive.

Rule 1.03 – Rules and Regulations

(a) **Board to Adopt:** The Board may adopt rules, regulations, and forms to carry out the provisions of Balt. City Code Art. 15 §1 and Art. 2B §12-203.

(b) **Advertising for Hearing and Comment:** The Board must advertise for public hearing and comment all rules and regulations proposed for adoption as detailed and in accordance with Balt. City Code Art. 15 §1-3.

(c) **Adoption of Rules And Regulations:** (i) After the public hearing, the Board may adopt the final rules and regulations with an effective date of at least 15 days after the date of their adoption; and (ii) a copy of the rules, regulations, and forms and of any amendments to them must be filed with the Department of Legislative Reference before they take effect.

Chapter 2 Licensing, Renewal, Fees, and Transfers

Rule 2.01 – License Required

A person may not own or operate any adult entertainment business without having first obtained an adult entertainment business license as provided in Balt. City Code Art. 15 §1.

Rule 2.02 – Applications

(a) **Owner and Operator Application:** The owner and operator of the adult entertainment business must apply jointly to the Board for the license.

(b) **Form:** The application must be in the form and contain the information that the Board requires.

(c) **When Made:** (i) An application for an adult entertainment business license must be made on or before the date of applying for the conditional-use approval required under the Zoning Code; and (ii) the adult entertainment business license may not become effective unless a conditional use has been approved and any right of judicial review contesting that approval has been exhausted.

(d) **By Whom Made:** The application of an owner or operator must be made:

- (1) If the applicant is corporation, by its chief executive officer;
- (2) If the applicant is a partnership, by its managing partner; or
- (3) If the applicant is a proprietorship, by its owners.

(e) **Information and Determination:** All information required in the application about an applicant must be given with respect to the individuals making the application. The determination of the Board must be based on the eligibility information provided by those individuals.

(f) **Investigation of applicants:** On receipt of the application, the Board must investigate the character and qualifications of the applicant.

(g) **Qualifications:** In general:

(1) An adult entertainment business license may not be issued to any person to own or operate an adult-entertainment business unless the Board determines that the applicant:

- (i) Is of good moral character

(ii) The business history and any criminal convictions of the applicant,

(iii) Is at least 18 years of age; and

(iv) Within the 3 years immediately before the application is submitted, has not been convicted of or pleaded guilty or nolo-contendere in any jurisdiction to a felony involving:

(I) Moral turpitude;

(II) Controlled dangerous substances;

(III) Prostitution;

(IV) Obscenity; or

(V) Any other crime that is sexual in nature.

Rule 2.03 – Postings and Objections

(a) Posting Required: On filing an application for a license (other than for the renewal of a license) and the payment of the application fee of \$500, notice of the application will be posted on the proposed premises will be posted for 15 days.

(b) 9 or fewer objections: If, within the 15 day posting period, the Board receives no more than 9 written objections from property owners or residents within the same election precinct as the proposed location, the adult-entertainment business license may be issued.

(c) 10 or more objections: If, within the 15 day posting period, the Board receives 10 or more written objections from property owners or residents within the same election precinct as the proposed location, the Board must hold a hearing on the matter.

(i) Unless the applicant agrees to a later date, the hearing must be held within 15 days after the last day of the 15 day posting period.

(ii) At the hearing, any interested party and/or citizens must be given an opportunity to be heard.

Rule 2.04 – Decision on Application

(a) Board to Decide: The Board must notify the applicant in writing of its decision to grant or deny the license as follows:

(i) If no hearing is held under Rule 2.03 of these Rules and Regulations, within 15 days after the last day of the 15 day posting period; and

(ii) If a hearing is held under Rule 2.03 of these Rules and Regulations, within 15 days after the conclusion of the hearing.

(b) Denial: A denial of an adult-entertainment business license must be based solely on the qualifications set forth in Rule 2.02(g) of these Rules and Regulations:

(i) The notice of denial must specify the reasons for denial and notify the applicant of the opportunity to request a hearing. Upon request made by the applicant for a hearing concerning the denial, the Board shall schedule a hearing within 30 days for reconsideration of the applicant's request, unless the applicant agrees to a later date.

Rule 2.05 – Term and Renewal of License

(a) **Term:** Each adult-entertainment business license expires annually on June 30 and is renewable as provided in this section.

(b) Application for renewal.

(1) **Renewal Period:** To renew an adult-entertainment business license, the licensee must apply no less than 30 days nor more than 60 days before the license expires.

(2) **Application:** The renewal application must be in the form and contain the information that the Board requires.

(c) **Approval:** On filing the renewal application and payment of the renewal fee, the Board may approve the application, except as provided in subsection (d) of this section.

(d) Protest and hearing.

(1) If, before the end of the renewal period, 10 or more written objections from property owners or residents within the same election precinct as the licensed premises are filed with the Board, the Board must hold a public hearing on the proposed renewal.

(2) Parties in interest and citizens must be given an opportunity to be heard.

(3) Any denial of a renewal license must be based solely on the standards set forth in Balt. City Code Art. 15 §1-28.

Rule 2.06 – Fee for License and Late Renewal Application Fees

(a) **Annual fee:** The annual license fee is \$1,000 for each adult-entertainment business, payable on or before June 30 of each year.

(b) **Initial fee:** The license fee for less than a full initial year is prorated quarterly.

(c) **Late Renewal Fee:** A licensee who fails to file a renewal application before or on June 30, is subject to a \$50 fine for each business day the renewal application is late. The total fine may not exceed \$1,500.

Rule 2.07 – Waiting period after denial.

If the Board denies an adult-entertainment business license or renewal license, the applicant may not reapply for at least 9 months after the date of the Board’s final decision or, if judicial review of the decision was granted, from the date of the final determination of the court.

Rule 2.08 – Transfer of license.

An adult-entertainment business license is not transferable to a new owner or operator without a new application to the Board.

Chapter 3 Standards of Operations

Rule 3.01 – Hours of Operation

(a) Except as provided in subsection (b) of this section, live adult entertainment may not be conducted between 2 a.m. and noon.

(b) If the State changes the closing time for holders of alcoholic beverage licenses, that closing time will apply to adult-entertainment businesses.

Rule 3.02 – Entrances and exteriors of premises

(a) Exterior entrance doors:

(1) Must be kept closed so that adult entertainment activities are not visible from the exterior of the building; and

(2) May be opened only: (i) To permit entry and exit; or (ii) For cleaning or ventilation during nonoperational hours.

(b) **Entertainment not to be visible from exterior:** The conduct of adult entertainment may not be visible at any time from the exterior of the premises in which it is conducted.

(c) **Enclosed vestibule or lobby:** The premises of each adult-entertainment business must have a vestibule or lobby enclosed by immobile walls and consisting of a passage, hall, or room between the outer door facing the street and the part of the premises where the adult entertainment is conducted.

Rule 3.03 – Barking

Any attempt to urge, invite, or entice people to enter the premises of an adult-entertainment business is prohibited within 50 feet of the premises.

Rule 3.04 – Owner to Prevent Nuisance

Every owner, operator, and manager of an adult-entertainment business must exercise care to prevent the business or its operations from becoming or creating a public nuisance, whether by generating noise, blocking public ways, or otherwise.

Rule 3.05 – Incorporation of Liquor License Rules and Regulations to Applicable Licensees

(a) All licensees that have been issued a liquor license and adult entertainment license shall abide by all rules and regulations listed in Chapter 3 and Chapter 4 of Liquor License Rules and Regulations in the operation of their adult entertainment license.

(b) Licensees that have only been issued adult entertainment licenses by this Board shall abide by these Rules and Regulations.

Rule 3.06 – Ownership and Operation

Every licensee shall be the actual owner operator of the business conducted on the licensed premises. The identity of a person who is, not a licensee but has a financial interest in said the business shall be disclosed to the Board in writing by the licensee.

Rule 3.07 – Cooperation

All licensees and an agent and employee of the licensee shall cooperate with a representative of the Board, the Police Department, Health Department, Fire Department, Building Engineers office, Grand Jury or other governmental agencies whenever any the representative is on official business.

Rule 3.08 – Signs and Hours of Operations

(a) All signage, including exterior signage, shall conform to zoning laws, rules, and regulations of Baltimore City.

(b) A licensee shall display a framed copy of licensee’s license in a conspicuous area that is visible to the public. The licensee shall present the license to an authorized public official upon request.

(c) A licensed establishment shall post its days and hours of operation on a window or door, in a conspicuous area that is visible to the public. A licensee who changes hours of operation shall provide the Board with the new hours within 30 days after making the change.

Rule 3.09 – Lightning

(a) **Exterior Lighting** – A licensee shall provide sufficient exterior lighting to clearly illuminate the entrances and exits of the establishment. In accordance with the laws of Baltimore City, a licensee may not use a strobe light to illuminate the establishment.

(b) **Interior Lighting** – A licensee shall provide interior lighting to sufficiently illuminate all commercial areas used by the public

Rule 3.10 – Sanitation and Safety

(a) Licensees shall operate their establishments at all times in accordance with the sanitation requirements of the Department of Housing and Community Development, Baltimore City Police Department, and other applicable City, State and federal laws, rules, and regulations.

(b) Licensees shall: (1) Provide containers for the disposition of garbage and refuse that meet the requirements of Baltimore City; (2) Keep the containers covered at all times; and (3) Remove all refuse regularly .

(c) Signs stating that all employees must wash their hands after using the restroom shall be prominently posted in the kitchens and restrooms used by a licensee's employees.

Rule 3.11 – Rest Room Facilities and Health Regulations

(a) Licensees shall provide on the licensed premises adequate, sanitary and fully functioning restroom facilities for all patrons.

(b) Licensees shall comply with all applicable State and City Health Department laws, rules, and regulations.

Rule 3.12 – Communications

(a) Licensees shall provide the Board with a functional telephone number, email address (if applicable) and fax number (if applicable).

(b) Within 30 days after changing a phone number, email address, or fax number, a licensee shall provide the Board with the updated information.

Rule 3.13 – False Statements

A applicant for a license or a licensee may not make a false statement, (1) In an original application for an alcoholic beverage license, (2) In a renewal application; (3) In a letter or written statement, (4) In testimony before the Board; or (5) T any representative of the Board conducting an investigation.

Rule 3.14 – Discrimination

A licensee, or an agent or employee of the licensee may not directly or indirectly refuse, withdraw from, or deny the services, accommodations, advantages, facilities, and privileges offered on the said licensee's premises because of race, creed, religion, physical or mental handicap, color, sex, national origin, age, occupation, marital status, political opinion, sexual orientation, gender identity or expression thereof, or personal appearance, except that a reasonable dress code may be utilized if notice of the dress code is posted on the premises.

Rule 3.15 – Gambling

Except when specifically authorized by law, a licensee, or an agent or employee of the licensee may not allow the licensed premises to be used for bookmaking or gambling.

Rule 3.16 – Drugs and Illegal Narcotics

(a) A licensee, or an agent or employee of the licensee may not permit the licensed premises to be used to sell, transfer, or accommodate the sale, transfer, or possession of a controlled dangerous substance as defined in the Annotated Code of Maryland.

(b) A licensee, or an agent or employee of the licensee may not use, possess, sell or allow to be used, dispensed, or sold on the licensed premises a controlled dangerous substance as defined in the Annotated Code of Maryland.

Rule 3.17 – Sexual Practices and Obscenity

(a) A licensee shall not permit the premises to be used for sexual activity, nor shall any licensee permit any employee, patron, or frequenter to solicit a person for prostitution or other immoral purpose.

(b) Prohibited Touching

(i) **By Patrons:** A patron may not touch a dancer's: (1) breast or chest; (2) genitals or genital area; or (3) anus, anal area or buttocks.

(ii) **By Dancers to other Dancers:** A dancer may not touch any other dancer's: (1) Breast or chest; (2) Genitals or genital area; or (3) Anus, anal area or buttocks.

(iii) **By Dancers to Patrons:** A dancer may not touch a patron's: (1) Breast or chest; (2) Genitals or genital area; or (3) Anus, anal area or buttocks.

(c) Prohibited Conduct on Premises

An adult entertainment business may not permit any of the following on the premises, whether by dancers, patrons, or otherwise:

(1) Any acts or acts which simulate of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts that are prohibited by law; or

(2) Caressing, fondling, or touching the breast or chest, genitals or genital area, or anus, anal area, or buttocks of any other person, whether clothed or unclothed; or

(3) Using artificial devices or inanimate objects to depict, perform or simulate any activity prohibited by this subsection.

(d) **No Nude Mingling** – A dancer may not mingle with patrons while the dancer is nude.

Rule 3.18 – Illegal Conduct and Codes Compliance

(a) A licensee on the licensed premises may not commit or allow the commission of an act that is: (1) contrary to a federal, State or local statute, law, or ordinance; or (2) against the public peace, safety, health, welfare, quiet or morals.

(b) The licensee must maintain the premises in compliance with all applicable health, fire, building, zoning, police, and alcoholic beverage codes and regulations.

Rule 3.19 – Alterations

(a) A license holder may not make any alteration or addition to a licensed premise or change the manner in which alcoholic beverages are dispensed without first:

- (1) Obtaining permission from the Board; and
- (2) Obtaining all the required permits and approvals from the City.

Rule 3.20 – Gifts

A licensee, or an agent or employee of the licensee may not directly or indirectly give or otherwise transfer to any member of the Board or any of Board agents or employees a commission, remuneration, or gift, except as provided by the Ethics Law of the Baltimore City.

Rule 3.21 – Minimum Age of Dancer

All dancers in adult entertainment establishments must be at least 18 years of age.

Rule 3.22 – Employee Records

(a) **Required** – An adult entertainment business must keep on its premises records of the legal name, address, date of birth, and the last four digits of the Social Security number of each person employed by, acting as an agent for, or under contract of the licensed establishment.

(b) **Form** – (1) For each Maryland resident, the records must include a copy of a valid Maryland driver’s license or other State issued identification card. (2) For each non-resident of Maryland, the records must include a valid government issued identification card or driver’s license.

(c) **Inspection of Employee Records** - The records shall be kept on premises and available for inspection, at any time, by members of the Board, Board employees, and all other law enforcement officials upon request.

Rule 3.23 – Posting of Prices

The licensee must post the prices of all alcoholic beverages in a conspicuous area that is visible to the public.

Chapter 4 Administrative Sanctions

Rule 4.01 – Denial, Suspension, or Revocation

(a) In general: The Board may deny, suspend, or revoke an adult-entertainment business license or renewal license for:

- (i) Failing to pay the applicable license fee on or before the due date;
- (ii) Making a material false statement in any application for an initial or renewal license;
- (iii) Failing to make any area in the licensed establishment accessible to firefighters and police;
- (iv) Failing to comply with the building, fire, health, zoning, or related Codes of Baltimore City
- (v) Failing to comply with this subtitle or any rule or regulation adopted under this subtitle; or
- (vi) Failing to comply with any other local, state, or federal law that relates to the operation of the adult-entertainment business.

(b) Offenses by owner, operator, or manager: The Board also may deny, suspend, or revoke an adult-entertainment business license or renewal license for the violation, by any owner, operator, or manager of the adult-entertainment business, of any local, state, or federal law that involves:

- (i) The manufacture, distribution, possession, or administration of controlled dangerous substances;
- (ii) Prostitution, sodomy, perverted sexual practices, or a bawdy house or disorderly house; or
- (iii) Obscene matter or immoral practices.

(c) Offenses by employee, etc., or vendor: The Board also may deny, suspend, or revoke an adult-entertainment business license or renewal license for the violation, by any employee, agent, independent contractor, or vendor of the adult-entertainment business, of any law referred to in subsection (b) of this section, if the offense occurred on the premises of the adult-entertainment business and the owner, operator, or manager:

- (1) Expressly or tacitly approved of the offense;
- (2) Had actual or constructive knowledge of the offense;
- (3) Reasonably should have known of the offense; or

(4) Failed to properly supervise his/her employees or agents, resulting in the offense.

Rule 4.02 – Fines

(a) For any violation that is cause for suspending or revoking a license, the Board may, instead of or in addition to suspending or revoking the license, impose a civil fine of:

- (i) For a first offense, not more than \$500; and
- (ii) For any subsequent offense, not more than \$1,000.

Rule 4.03 – Notice and hearing

(a) **In general:** An adult-entertainment business license or renewal license may not be denied, suspended, or revoked and fine may not be imposed unless the Board gives the applicant or licensee:

- (i) At least 10 days’ written notice of the intent to impose sanctions; and
- (ii) An opportunity to be heard as to why sanctions should not be imposed.

(b) **Denial of initial license:** For the proposed denial of an initial license, a hearing must be held within 30 days after a timely request is made, unless the applicant agrees to a later date.

Rule 4.04 – Judicial and Appellate Review

(a) **Judicial review:** A person aggrieved by a decision of the Board may seek judicial review of that decision by petition to the Circuit Court for Baltimore City in accordance with the Maryland Rules of Procedure.

(b) **Review to be expedited:** (1) It is the intent of the Mayor and City Council that a review under this section be heard and decided by the Court as expeditiously as possible; and (2) to that end, the Board must join in any motion by the petitioner for expedited review and cooperate fully with the petitioner to obtain an expedited review.

(c) Stays:

(1) The filing of a petition for judicial review does not stay the decision of the Board.

(2) However, on motion and after hearing, the Court may grant a stay as provided in the Maryland Rules of Procedure.

(d) **Appellate review:** A party to the judicial review may appeal the court’s final judgment to the Court of Special Appeals in accordance with the Maryland Rules of Procedure.