

SUBTITLE 1
ADULT-ENTERTAINMENT BUSINESSES

PART I. DEFINITIONS; GENERAL PROVISIONS

§ 1-1. Definitions.

(a) *In general.*

In this subtitle, the following terms have the meanings indicated.

(b) *Adult entertainment.*

(1) *Supplemental terms defined.*

(i) *In general.*

In this subsection, the following terms have the meanings indicated.

(ii) *Nudity.*

“Nudity” means:

- (A) the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering;
- (B) the showing of the female breast with less than a fully opaque covering over any part below the top of the nipple; or
- (C) the depiction of covered male genitals in a discernibly turgid state.

(iii) *Partial nudity.*

“Partial nudity” means a state of dress in which opaque clothing covers no more than:

- (A) the human male or female genitals, pubic area, or buttocks;
- (B) the female breasts below the top of the nipples; and
- (C) portions of the body covered by supporting straps or devices.

(2) *“Adult entertainment” defined.*

“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:

(A) human genitals in a discernible state of sexual stimulation or arousal; or

(B) 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

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

(c) *Adult-entertainment business.*

“Adult-entertainment business” means any cabaret, lounge, night club, modeling studio, or other establishment that offers its customers adult entertainment.

(d) *Board.*

“Board” means the Board of Liquor License Commissioners for Baltimore City.

(e) *Includes; including.*

“Includes” or “including” means by way of illustration and not by way of limitation.

(f) *Person.*

(1) *In general.*

“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) *Exclusions.*

“Person” does not include, unless otherwise expressly provided, a governmental entity or an instrumentality or unit of a governmental entity.

(City Code, 1976/83, art. 30, §13.0-1-6.) (Ord. 93-258; Ord. 94-443; Ord. 99-417.)

§ 1-2. 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.

(Ord. 99-417.)

§ 1-3. Rules, regulations, and forms.**(a) *Board to adopt.***

The Board may adopt rules, regulations, and forms to carry out the provisions of this subtitle.

(b) *Advertising for hearing and comment.*

(1) The Board must advertise for public hearing and comment all rules and regulations proposed for adoption under this subtitle.

(2) The advertisement:

(i) must be published in a newspaper of general circulation at least 15 days before the hearing; and

(ii) must include:

(A) a description of the proposed rules and regulations;

(B) the date, time, and location of the public hearing; and

(C) information on how a person can obtain a copy of the proposed rules and regulations before the hearing.

(c) *Adoption; filing.*

(1) 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.

(2) 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 may take effect.

(City Code, 1976/83, art. 30, §11.0-3f(5th-7th sens), §11.0-8b7.) (Ord. 93-258; Ord. 94-443; Ord. 99-417.)

§ 1-4. Scope.

Nothing in this subtitle is intended to permit any activity that is otherwise prohibited by federal, state, or local law.

Ord. 99-417.)

§§ 1-5 to 1-6. {Reserved}**PART 2. LICENSING****§ 1-7. 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 this subtitle.

(City Code, 1976/83, art. 30, §11.0-8a.) (Ord. 93-258; Ord. 94-443; Ord. 99-417.)

§ 1-8. Applications — in general.**(a) Owner and operator to apply jointly.**

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.

(1) 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.

(2) The adult-entertainment business license may not become effective unless a conditional use has been approved and any right of appeal contesting that approval has been exhausted.

(City Code, 1976/83, art. 30, §11.0-8b1.) (Ord. 93-258; Ord. 94-443; Ord. 99-417.)

§ 1-9. Applications — responsible party.**(a) By whom made.**

The application of every owner and operator must be made as follows:

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

(b) *Information and determination.*

All information required in the application about an applicant must be given with respect to the individuals making the application, and the determination of the Board must be based on the eligibility of those individuals.

(City Code, 1976/83, art. 30, §11.0-8b2(4th sen.)) (Ord. 93-258; Ord. 94-443; Ord. 99-417.)

§ 1-10. Investigation of applicants.

On receipt of the application, the Board must investigate the character and qualifications of the applicants.

(City Code, 1976/83, art. 30, §11.0-8b2(1st sen.) (Ord. 93-258; Ord. 94-443; Ord. 99-417.)

§ 1-11. Qualifications.

(a) *In general.*

An adult-entertainment business license may not be issued to any person to own or operate an adult-entertainment business unless the applicant:

- (1) based on the considerations specified in subsection (b) of this section, is of good moral character;
- (2) is at least 18 years of age; and
- (3) within the preceding 3 years, 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.

(b) *Required considerations.*

In determining moral character, the Board must consider:

- (1) all criminal convictions of the applicant; and
- (2) the business history of the applicant.

(City Code, 1976/83, art. 30, §11.0-8b2(2nd, 3rd sens), §11.0-8b3.) (Ord. 93-258; Ord. 94-443; Ord. 99-417.)

§ 1-12. Posting; objections.**(a) Posting required.**

On filing an application for a license (other than a renewal license), the applicant must post the proposed location for 15 days, in accordance with the Board's rules and regulations.

(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.

(1) 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.

(2) 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.

(3) At the hearing, parties in interest and citizens must be given an opportunity to be heard. (City Code, 1976/83, art. 30, §11.0-8b6(1st-4th, 8th sens.) (Ord. 93-258; Ord. 94-443; Ord. 99-417.)

§ 1-13. 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:

(1) if no hearing is held under § 1-12(c) of this subtitle, within 15 days after the last day of the 15-day posting period; and

(2) if a hearing is held under § 1-12(c) of this subtitle, within 15 days after conclusion of the hearing.

(b) Denial.

(1) Any denial of an adult-entertainment business license must be based solely on the qualifications set forth in § 1-11 of this subtitle.

(2) The notice of a denial must:

(i) specify the reasons for the denial; and

- (ii) notify the applicant of the opportunity to request a hearing under § 1-30 of this subtitle.

(City Code, 1976/83, art. 30, §11.0-8b6(5th, 6th sens), §11.0-8b5(1st, 3rd sens).) (Ord. 93-258; Ord. 94-443; Ord. 99-417.)

§ 1-14. Term and renewal of licenses.

(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) 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) 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 § 1-28 of this subtitle.

(City Code, 1976/83, art. 30, §11.0-8b4, 8f.) (Ord. 93-258; Ord. 94-443; Ord. 99-417.)

§ 1-15. Fee for license.

(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.

(City Code, 1976/83, art. 30, §11.0-8e.) (Ord. 93-258; Ord. 94-443; Ord. 99-417.)

§ 1-16. 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 from the date of the Board's final decision or, if that decision was appealed, from the date of the final court decision.

(City Code, 1976/83, art. 30, §11.0-8b6(6th sen.)) (Ord. 93-258; Ord. 94-443; Ord. 99-417.)

§ 1-17. Transfer of license.

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

(City Code, 1976/83, art. 30, §11.0-8j(1st sen.)) (Ord. 93-258; Ord. 94-443; Ord. 99-417.)

§§ 1-18 to 1-19. {Reserved}**PART 3. STANDARDS OF OPERATION****§ 1-20. Hours of operation.****(a) In general.**

Except as provided in subsection (b) of this section, no live adult entertainment may be conducted between the hours of 2 a.m. and noon.

(b) Exception.

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

(City Code, 1976/83, art. 30, §11.0-8c1.) (Ord. 93-258; Ord. 94-443; Ord. 99-417.)

§ 1-21. Entrances and exteriors of premises.**(a) Exterior entrance doors.**

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.

(City Code, 1976/83, art. 30, §11.0-8c2(a), (b), (d).) (Ord. 93-258; Ord. 94-443; Ord. 99-417.)

§ 1-22. "Barking".

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

(City Code, 1976/83, art. 30, §11.0-8c2(c).) (Ord. 93-258; Ord. 94-443; Ord. 99-417.)

§ 1-23. Owner, etc., to prevent nuisance.

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

(Ord. 99-417.)

§ 1-24. {Reserved}**§ 1-25. License to be posted.**

The person to whom an adult-entertainment business license is issued must display it in the lobby, vestibule, or other prominent place on the premises.

(City Code, 1976/83, art. 30, §11.0-8k.) (Ord. 93-258; Ord. 94-443; Ord. 99-417.)

§§ 1-26 to 1-27. {Reserved}**PART 4. ADMINISTRATIVE SANCTIONS****§ 1-28. Denial, suspension, or revocation.**(a) *In general.*

The Board may deny, suspend, or revoke an adult-entertainment business license or renewal license for any of the following causes:

- (1) failing to pay the applicable license fee on or before the due date;
- (2) making any material false statement in any application for an initial or renewal license;
- (3) lack of accessibility for fire and police protection;
- (4) failing to comply with any provision of the Building, Fire, and Related Codes of Baltimore City, the Health Code of Baltimore City, or the Zoning Code of Baltimore City;

- (5) failing to comply with any provision of this subtitle or of any rule or regulation adopted under this subtitle; or
- (6) failing to comply with any provision of any other local, state, or federal law that affects or 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 provision of any local, state, or federal law that involves:

- (1) the manufacture, distribution, possession, or administration of controlled dangerous substances;
- (2) prostitution, sodomy, perverted sexual practices, or a bawdy house or disorderly house; or
- (3) 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:

- (1) the offense occurred on the premises of the adult-entertainment business; and
- (2) either:
 - (i) the owner, operator, or manager affirmatively or tacitly approved of the offense;
 - (ii) the owner, operator, or manager had actual or constructive knowledge of the offense;
 - (iii) the owner, operator, or manager reasonably should have known of the offense; or
 - (iv) the offense was a result of the owner, operator, or manager's failure to supervise.

(City Code, 1976/83, art. 30, §11.0-8g, 8h.) (Ord. 93-258; Ord. 94-443; Ord. 99-417; Ord. 07-552.)

§ 1-29. Fines.

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:

- (1) for a 1st offense, not more than \$500; and

- (2) for any subsequent offense, not more than \$1,000.

(Ord. 99-417.)

§ 1-30. Notice and hearing.**(a) In general.**

No adult-entertainment business license or renewal license may be denied, suspended, or revoked and no fine may be imposed unless the Board gives the applicant or licensee:

- (1) at least 10 days' written notice of the intent to impose sanctions; and
- (2) 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 of a timely request, unless the applicant agrees to a later date.

(City Code, 1976/83, art. 30, §11.0-8i(1st sen.)) (Ord. 93-258; Ord. 94-443; Ord. 99-417.)

§ 1-31. 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 desire and intent of the Mayor and City Council that any review under this section be heard and decided by the Court as expeditiously as possible.
- (2) To that end, the Board must join in any motion by the appellant for expedited review and cooperate fully with the appellant 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.

(City Code, 1976/83, art. 30, §11.0-8b6(7th sen.), §11.0-8i(3rd sen.)) (Ord. 93-258; Ord. 94-443; Ord. 99-417; Ord. 04-672.)

§ 1-32. {Reserved}

PART 5. ADVISORY TASK FORCE**§ 1-33. Task Force established.**

There is an Adult-Entertainment Business Advisory Task Force.
(*City Code, 1976/83, art. 30, §11.0-8l(1st sen.)*) (Ord. 93-258; Ord. 94-443; Ord. 99-417.)

§ 1-34. Purpose.

The purpose of the Advisory Task Force is to advise the appropriate administrative and elected officials on matters related to the conduct of adult-entertainment businesses.
(*City Code, 1976/83, art. 30, §11.0-8l(2nd sen.)*) (Ord. 93-258; Ord. 94-443; Ord. 99-417.)

§ 1-35. Appointment and composition.**(a) In general.**

The Advisory Task Force consists of 9 members who serve without compensation.

(b) Representation.

The Mayor appoints the members of the Advisory Task Force, as follows:

- (1) 2 members from a list of 4 nominees by the Citizens Planning and Housing Association;
- (2) 1 member from a list of 2 nominees by the Greater Baltimore Committee;
- (3) 1 member from a list of 2 nominees by the Baltimore City Chamber of Commerce;
- (4) 3 members, 2 of whom must be members of the Baltimore Entertainment Center, Inc., from a list of 6 nominees by the holders of adult-entertainment business licenses;
- (5) 1 member from a list of 2 nominees by the Downtown Partnership, Inc.; and
- (6) 1 member, who must be a member of the Baltimore City Council, nominated by the President of the City Council.

(c) Terms.

- (1) The terms of the members are as provided in Article IV, § 6 of the City Charter.
- (2) No individual may serve more than 2 consecutive terms on the Advisory Task Force.

(d) Chair.

The Mayor designates the chair of the Advisory Task Force.
(*City Code, 1976/83, art. 30, §11.0-8m.*) (Ord. 93-258; Ord. 94-443; Ord. 99-417.)

§§ 1-36 to 1-37. {Reserved}

PART 6. PENALTIES

§ 1-38. Penalties.

(a) *In general.*

Any person who violates, omits, neglects, or refuses to comply with, or resists the enforcement of any provision of this subtitle or of any rule or regulation adopted under this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$500.

(b) *Each day a separate offense.*

Each day that a violation continues after notification constitutes a separate offense. (City Code, 1976/83, art. 30, §11.0-7a(part.)) (Ord. 31-1247; Ord. 53-711; Ord. 57-830; Ord. 87-1032; Ord. 94-288; Ord. 94-307; Ord. 94-349; Ord. 99-417.)