

**TITLE 17 MISCELLANEOUS AGENCIES, BOARDS, AND COMMISSIONS**

SUBTITLE 05 BOARD OF LIQUOR LICENSE COMMISSIONERS FOR BALTIMORE CITY

CHAPTER 01 Adult Entertainment Regulations

Authority: Baltimore City Code Article 15, § 1-3

*17.05.01.01*

**.01 Scope.**

This chapter establishes rules and regulations governing the adult entertainment industry in Baltimore City.

17.05.01.02

**.02 Definitions.**

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Adult entertainment" has the same meaning as City Code Article 15, sec. 1-1(b)(2), but does not include the following:

- (a) A theatre,
- (b) A concert hall,
- (c) An art center,
- (d) A museum, or
- (e) An establishment that is primarily devoted to arts or theatrical performances, when the performances presented express matters of serious literary, artistic, scientific, or political value.

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

(3) "Agent" means someone authorized to speak on behalf of an owner or licensee who:

- (a) May receive official correspondence from and interact with the Board, and
- (b) Is an employee of the establishment or meets the definition of agent under Maryland Code, Estates and Trusts, § 17-101.

(4) "Applicant" means a person or persons who have applied to the Board to be approved to receive a license to operate an adult entertainment business.

(5) "Board" means the Board of Liquor License Commissioners for Baltimore City.

(6) "Dancer" means a person who appears nude or partially nude and is

- (a) An employee, an independent contractor, or an invitee, or
- (b) A hostess, entertainer, or bartender.

(7) "Director of Finance" means the Director of the Baltimore City Department of Finance.

(8) "Executive Secretary" means the Executive Secretary of the Board of Liquor License Commissioners for Baltimore City.

(9) “Financial interest” means ownership of a legal or equitable interest, however small, or a relationship as director, adviser, or other active participant in the affairs of the adult entertainment business.

(10) “Good moral character” means a determination made by the Board that is based on:

(a) The applicant’s past business practices; and

(b) A past criminal conviction of the applicant.

(11) “Licensee” means the holder of an Adult Entertainment License issued under the provisions of City Code Article 15, Title 1.

(12) “Liquor License” means an alcoholic beverages license issued by the Board of Liquor License Commissioners for Baltimore City under Maryland Code, Alcoholic Beverages and Cannabis.

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

(14) “Management Agreement” means an agreement made between the licensee and the person or business entity hired by the licensee to manage the operation and facility at the business premises.

(15) “Manager” means the individual who manages the day-to-day operation of the adult entertainment business but who is not listed on the adult entertainment license.

(16) “Mingle” means to interact with a patron at a distance that is closer than 6 feet.

(17) "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.

(18) “Operator” means a person or business entity who oversees the general operations of an adult entertainment business on behalf of the licensee.

(19) “Owner” is a person who has a financial interest in the adult entertainment business and who may or may not be listed on the adult entertainment license.

(20) “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, or
- (c) Portions of the body covered by supporting straps or devices.

(21) "Party" means a person or entity who has an interest in the outcome of a case before the Board.

(22) "Patron" means a customer or client on the premises of an adult entertainment business.

(23) "Person" has the meaning stated in City Code General Provisions Article, §1-107.

(24) "Sodomy" means anal copulation with another person.

(25) "Valid written protest" means a written objection to a transfer or renewal of an adult entertainment license that is submitted

- (a) by a property owner or resident within the same election precinct as the proposed premises
- (b) during the posting period for a license application.

(26) "Vendor" means a person, business or agency that provides goods or services to the licensee.

*17.05.01.03*

**.03 License Requirement.**

A. A person may not own or operate an adult entertainment business in Baltimore City without first obtaining an adult entertainment business license in accordance with City Code Article 15, Title 1.

B. A licensee shall display a framed copy of licensee's license in a conspicuous area that is visible to the public.

C. A licensee shall present the license to an authorized public official upon request.

**.04 License Applications.**

**A. Applicant Requirements.**

- (1) An owner and an operator shall jointly apply to the Board for a license.
  - (a) An application from a corporation shall be made by its chief executive officer.
  - (b) An application from a partnership shall be made by its managing partner.
  - (c) An application from a proprietorship shall be made by its owners.
- (2) The Board shall determine that the applicants have met the requirements in Regulation §04.C prior to issuing an adult entertainment license to an applicant.
- (3) If one or more required applicants are disqualified by the Board, a new application will be required.

**B. Applications Generally.**

- (1) An applicant shall submit an application for a license transfer, change of officers, or change in resident agent on a form required by the Board.
- (2) An applicant shall access the application on the Liquor Board website under the heading entitled "Application Process."
- (2) An applicant or a person acting under the applicant's personal supervision shall complete the application.
- (3) The Board shall accept applications in both hard copy and in electronically submitted format if both formats are available.
- (4) The Board shall accept an application that is complete and legible.
- (5) An applicant shall submit an application which meets the requirements stated in City Code Article 15, § 1-8.
- (6) The Board shall post notice for 15 days on the proposed business premises that an application for an adult entertainment license has been filed.
- (7) The Board staff shall:
  - (a) Create the notice for posting, and
  - (b) Affix the notice to the proposed premises.

### C. Determination.

(1) The Board shall consider in its determination of whether to grant a license, whether the applicant:

- (a) Is at least 18 years of age,
- (b) Is of good moral character,
- (c) Has within the 3 years prior to submitting the application been convicted or entered a plea of guilty or no contest to a felony charge involving:
  - (i) Moral turpitude,
  - (ii) Controlled dangerous substances,
  - (iii) Prostitution,
  - (iv) Obscenity, or
  - (v) A crime that is sexual in nature.

(2) The Board may issue the adult entertainment business license if

- (a) The applicant has met the standards listed in § C(1), and
- (b) The Board receives less than 10 valid written protests to the application.

(3) The Board shall notify the applicant in writing of its decision to grant or deny the license in accordance with City Code Article 15, §1-13.

(4) If the Board denies an adult entertainment business license, City Code Article 15, §1-16 requires that the applicant wait at least 9 months before reapplying.

### D. License Renewal.

(1) An adult entertainment business license expires annually on June 30.

(2) The fee for an adult entertainment annual license is \$1,000, and:

- (a) Is payable on or before May 31 of each year,
- (b) The initial fee for less than a full year shall be prorated quarterly,
- (c) A licensee who fails to file a renewal application before or on May 31 is subject to a \$50 fine for each business day a renewal application fee is late, and
- (d) A total late adult entertainment business license renewal fee may not exceed \$1,500.

(3) An applicant shall submit an application for a license renewal on the form required by the Board found on the Liquor Board website under the “Renewal” section.

(4) The Board shall accept an application that is

(a) Complete and legible, and

(b) Completed by the applicant or under the applicant’s personal supervision.

(5) The Board may approve the application upon completion of the renewal application and payment of the renewal fee except as provided in §E of this regulation.

#### E. Protest and hearing.

(1) The Board shall hold a public hearing on the transfer application if the Board receives 10 or more valid written protests within the 15-day posting period.

(2) The Board shall hold a public hearing on the license renewal application if it receives 10 or more valid written protests between May 1 and May 31 of the license year.

(3) Parties in interest and citizens shall be given an opportunity to be heard.

(4) A party submitting a protest electronically, shall

(a) Submit it to the email address provided at the Liquor Board website under "Hearing Schedules," and

(b) State clearly in the subject line that the submission is a “Protest of Application” or “Protest of Renewal” and include the address of the establishment that is the subject of the protest.

(5) A party may also submit a protest via first class mail or hand delivery to the Board’s office.



17.05.01.05

**.05 Standards of Operation.**

A. Hours.

- (1) An adult entertainment venue may not conduct business between the hours of 2 a.m. and noon.
- (2) An adult entertainment business shall post its days and hours of operation on a door or window in a conspicuous area visible by the public.

B. Exterior Building Requirements.

- (1) A licensee shall abide by the standards contained in City Code Art. 15, § 1-21 for maintenance of the front door and the exterior of the licensed premises.
- (2) A licensee shall ensure that the exterior doors of the licensed premises are kept closed so that adult entertainment activities are not visible from exterior.

C. Sanitation, Health and Safety Requirements.

- (1) A licensee shall operate their establishment in compliance with the sanitation, health and safety standards of:
  - (a) The Department of Housing and Community Development;
  - (b) The Department of Health;
  - (c) The Baltimore City Police Department; and
  - (d) Other applicable City, state, and federal laws or regulations.
- (2) A licensee shall:
  - (a) Provide containers for the disposition of garbage that meet the requirements for a business in Baltimore City;
  - (b) Keep garbage containers covered at all times; and
  - (c) Remove all trash regularly.
- (3) A licensee shall provide on the premises adequate, sanitary, and fully functioning restroom facilities for all patrons and employees.
- (4) A licensee shall post signs in conspicuous areas of a restroom or kitchen stating that employees must wash their hands after using the restroom.

D. A licensee may not alter the manner in which alcoholic beverages are dispensed at the premises under the terms of a liquor license issued to the licensee.

#### E. Nuisance.

(1) A licensee, owner, operator, or manager of an adult entertainment business shall exercise care to prevent the business or its operations from creating a public nuisance by:

- (a) Generating noise,
- (b) Blocking public ways, or
- (c) Engaging in an activity that would constitute a public nuisance as defined in Art. 19, § 43-1 of the City Code.

(2) An adult entertainment business, its employees, managers and agents must comply with the prohibition against “Barking” as defined in Art. 15, § 1-22 of the City Code.

F. A licensee that has also been issued a liquor license shall abide by all rules and regulations listed in Chapter 3 and Chapter 4 of Liquor License Rules and Regulations.

#### G. Ownership and Operation.

(1) A licensee shall be the actual owner of the business conducted on the licensed premises.

(2) A licensee shall file with the Board and retain at the licensed premises, a copy of a management agreement which should include information regarding

- (a) the management fees,
- (b) the terms and duration of the agreement, and
- (c) a telephone number for the manager.

(3) The licensee shall disclose to the Board in writing the identity of a person who is not the licensee but has a financial interest in the adult entertainment business.

#### H. Cooperation.

(1) A licensee and its employees shall cooperate with a state or local agency while conducting official business including:

- (a) The Board,
- (b) The Baltimore City Police Department, and
- (c) The Baltimore City Health Department.

(2) A Licensee shall provide the Board with a functional telephone number and email address.

(3) A licensee shall provide the Board with updated contact information within 30 days of changing a phone number, email address, or fax number.

(4) A licensee may not make a false statement:

- (a) In an original or renewal application for an adult entertainment business license,
- (b) In an original or renewal application for an alcoholic beverage license,
- (c) In a letter or written statement to the Board, a government agency, or their representatives,
- (d) In testimony before the Board, or
- (e) To a representative of the Board making an official investigation.

#### I. Prohibited Activities.

(1) A licensee may not permit the premises to be used for sexual activity.

(2) A licensee may not permit an employee or patron to solicit a person for or engage in

- (a) Prostitution,
- (b) Gambling,
- (c) Use or sale of controlled dangerous substances, or
- (d) Other illegal activity as defined in Art. 19 of the City Code or an applicable state or federal law.

(3) A licensee shall ensure that a patron does not touch a dancer's:

- (a) Breast or chest,
- (b) Genitals or genital area, or
- (c) Anus, anal area, or buttocks.

(4) A licensee shall ensure that a dancer does not touch a patron's:

- (a) Breast or chest,
- (b) Genitals or genital area, or
- (c) Anus, anal area, or buttocks.

(5) A licensee shall ensure that a dancer does not touch another dancer's:

- (a) Breast or chest,
- (b) Genitals or genital area, or

(c) Anus, anal area, or buttocks.

(6) A licensee shall ensure that a dancer whose breasts, genitalia or buttocks are exposed does not:

(a) Perform closer than 6 feet from the nearest patron, or

(b) Mingle with a patron while not performing on the identified stage.

#### J. Age Requirement.

(1) A licensee shall prohibit individuals under the age of 21 from entering the licensed premises, unless the individual is:

(a) An employee, agent or contractor of the establishment who is at least 18 years of age, or

(b) An active-duty member of the armed forces of the United States.

(2) If this age requirement is changed in either State or City law, the licensee shall be required to abide by the new limit.

K. A licensee shall post the prices of all alcoholic beverages in a conspicuous area that is visible to the public.

#### L. Records.

(1) A licensee shall keep records containing an employee's:

(a) Legal name,

(b) Addresses,

(c) Date of birth, and

(d) The last four digits of their Social Security number.

(2) A licensee shall have proof of application for:

(a) A certificate issued by the Director of Finance of the City showing that there are no unpaid City or State taxes on the merchandise, fixtures, and stock of the applicant, and

(b) A trader's license issued by the Circuit Court of Baltimore City.

(3) A licensee shall keep the records on the licensed premises.

(4) A licensee shall make the records available for inspection by:

(a) The Board and its employees, and

(b) Law enforcement officials.

M. Human Trafficking.

An adult entertainment business shall post on its premises a sign that complies with the requirements of Art. 15, Subtitle 42 of the City Code.

17.05.01.06

**.06 Denial, Suspension, Revocation.**

A. The Board may deny, suspend, or revoke an adult entertainment business license or renewal for the reasons stated in Art. 15, § 1-28.

B. For a violation that is cause for suspension or revocation of a license, the Board may impose a civil fine instead of or in addition the suspension or revocation in the amount of

(a) Not more than \$500 for a first offense; and

(b) Not more than \$1,000 for a subsequent offense.

C. The Board may not deny, suspend, or revoke a license or renewal or impose a fine unless the Board provides notice and opportunity to be heard as stated in City Code Art. 15, § 1-31.

D. A person may seek judicial review of a decision by the Board by petition to the Circuit Court of Baltimore City.

17.05.01.07

**.07 Submission of Materials to the Board in Preparation for Public Hearings.**

A. Evidentiary Documents.

- (1) A party shall submit a document, photo, video or other evidentiary item for consideration by the Board not less than 48 hours before the public hearing.
- (2) The Board shall consider evidence submitted to the email address provided at the Liquor Board website under "Hearing Schedules."
- (3) The Board may consider an item submitted after the deadline and will afford the item the evidentiary weight the Board determines is appropriate.

B. Evidence Submission Guidelines.

- (1) A person shall clearly label evidence submitted to the Board with the name of licensed establishment, or proposed licensed establishment, and date of the related hearing.
- (2) The Board may accept as a late submission one that is received less than 48 hours prior to the advertised start of the hearing docket on the day in which the case is to be heard.
- (3) The Board shall make a late submission part of the case file and may deem the late submission to be a hearing exhibit.
- (4) A person may submit exhibits at the hearing in person and shall provide a minimum of five copies for the Board and its staff.
- (5) A person shall address correspondence to the Board of Liquor License Commissioners.
- (6) The Board may consider correspondence submitted to the "Hearing Exhibits" email address as evidence; and it
  - (a) Shall become part of the public record; and
  - (b) May be viewed by members of the public, press, and those with business before the Board.
- (6) The Board shall print and include in the file an image submitted through the Hearing Exhibits email.
- (7) A person who wants to submit a video to the Board shall do so in person at the hearing.

C. Postponement Requests.

- (1) A party shall request a postponement of a case to be heard before the Board
  - (a) In writing, and
  - (b) Not less than 48 hours prior to the advertised start of the hearing docket on the day in which the case is to be heard.
- (2) A party shall submit a request for postponement via email to the email address provided at the Liquor Board website under "Hearing Schedules"; and
  - (a) Shall detail the reason for the postponement; and
  - (b) Clearly state the subject of the message as "Postponement Request."
- (3) If a party fails to clearly mark the subject of the message, the Board may be unable to process the request in a timely manner.
- (4) If the Board grants a postponement request, the hearing shall be rescheduled as soon as possible.
- (5) The Executive Secretary and Chairperson of the Board shall review an untimely postponement request to determine if there is good cause to allow for the postponement.