

Alcoholic Beverages
Rules and Regulations
for the
Board of Liquor License Commissioners
for
Baltimore City



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**BOARD OF LIQUOR LICENCE COMMISSIONERS
FOR BALTIMORE CITY**

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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 retail sale of alcoholic beverages in Baltimore City.

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.

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**Rules and Regulations of
The Board of Liquor License Commissioners for Baltimore City**

**Chapter 1
General Provisions, Definitions, and License Types**

Rule 1.01 – Definitions

(a) “Alcohol Awareness Program”, as stated in Art. 2B § 13-101, means a program that is approved and certified by the Maryland State Comptroller; has been issued an alcohol awareness program permit by the Maryland State Comptroller; includes instruction on how alcohol affects a person's body and behavior; provides education on the dangers of drinking and driving; defines effective methods for serving customers to minimize the chance of intoxication, includes instruction on ceasing service before customers become intoxicated; and instruction on determining if a customer is under the age of 21 years.

(b) “Alcoholic Beverages” means a liquid or compound, by whatever name called, that contains one-half of one percent or more of alcohol by volume and is fit for consumption.

(c) “Affidavit” means an oath or affirmation sworn or made before an officer or other person authorized to administer an oath or take an affirmation that the matters and facts set forth in the paper writing to which it pertains are true to the best of the affiant’s knowledge, information and belief, under the penalties of perjury.

(d) “Article 2B” means Article 2B, the Alcoholic Beverages Article of the Annotated Code of the State of Maryland.

(e) “Attorney” means any attorney at law admitted to the Bar of the Court of Appeals of Maryland.

(f) “Beer” means any brewed alcoholic beverage. Beer includes beer, ale, porter, stout, hard cider; and alcoholic beverages that contain: 6% or less alcohol by volume, derived primarily from the fermentation of grain, with not more than 49% of the beverage’s overall alcohol content by volume obtained from flavors and other added non beverage ingredients containing alcohol; or more than 6% alcohol by volume, derived primarily from the fermentation of grain, with not more than 1.5% of the beverage’s overall alcohol content by volume obtained from flavors and other added non beverage ingredients containing alcohol.

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

(h) “Caterer” means any beer and wine or beer, wine and liquor licensee who contracts to provide food and alcoholic beverages to sponsors of public or private events held off the licensed premises.

(i) “Club” means an association, corporation, or other entity, organized and operated exclusively for educational, social, fraternal, patriotic, political, or athletic purposes, and not for profit. Art. 2B § 1-102(a)(4)(I). This definition does not apply to those clubs applying for a beer, wine, and liquor license under Art. 2B §7-101(b) and Art. 2B §7-101(d).

(j) “Comptroller” means the Comptroller of the Treasury of the State of Maryland.

(k) “Contract Purchaser” means a person, corporation, or partnership that purchases the license and/or business from an active licensee for the purposes of selling the license and/or business on the open market. The contract purchaser is only recognized as such once the appropriate documentation has been filed and approved by the Board or its designee. At no time can the contract purchaser operate the business, but can only hold the license for the purposes of sale subject to the restrictions stipulated in Article 2B.

(l) “City” means the City of Baltimore, Maryland.

(m) “Hotel” means a licensed premise for the accommodation of the public, equipped with not less than 100 rooms for the accommodation of the public and a dining room with facilities for preparing and serving regular meals for at least 125 persons at one seating and the capital investment in the hotel facility may not be less than \$500,000.

(n) “Licensed Premises” means those premises that are specifically identified in the license issued by the Board, and may also include an approved outdoor cafe area, and/or a parking area in which patrons from the licensed premises are allowed to park their vehicles.

(o) “License Holder” or “Licensee” means the holder of any license or permit issued under the provisions of Article 2B or any other law of the State of Maryland.

(p) “Live Entertainment” means any one or more of any of the following, performed live by one or more persons, whether or not done for compensation and whether or not admission is charged: (1) musical act (including karaoke); (2) theatrical act (including stand-up comedy); (3) play; (4) revue; (5) dance; (6) magic act; (7) disc jockey; or (8) similar activity. Of note the definition of “Live Entertainment” is subject to change depending on any revisions or amendments to the Zoning Code of the City. “Live entertainment” does not include adult entertainment, as defined by the Adult Entertainment rules promulgated by this Board.

(q) “Mixed Drink” means a drink that includes as an ingredient of one or more alcoholic beverages combined with non-alcoholic beverages and/or food.

(r) “Non-profit organization” means a not for profit corporation, foundation, or other legal entity that is exempt from federal income tax under the Internal Revenue Code.

(s) “Party of Record” means a person that appears, testifies, and is subject to cross-examination at a public hearing on a matter heard before the Board.

(t) “Patron” means any customer, client, or other invitee on the premises of an establishment.

(u) “Pecuniary Interest” means a legal or equitable interest in the licensed business entitling the owner to receive a percentage of the profits derived from the sale of alcoholic beverages of the business. “Pecuniary Interest” does not include payments made to any employee, manager, mortgagor, landlord, creditor, or other individual who does not otherwise own an interest in the licensed business. The ownership of stock in either a publicly or privately traded entity is not considered a pecuniary interest for the purpose of these Rules and Regulations provided that the owner of such stock does not have any substantial degree of control or management of the entity.

(v) “Person” means a natural person, an association, a partnership, a corporation, a limited liability company, or any other legal entity.

(w) “Renewal” means the reissuance of an existing license for the same premises, licensee(s), or type of license.

(x) “Restaurant” means, generally, a licensed premise that accommodates the public, and is equipped with a dining room with facilities for preparing and serving regular meals. The daily receipts from the sale of food shall be at least 40% of the total daily receipts of the establishment. “Food” may not include any ingredient or garnish used with or mixed with an alcoholic beverage that is prepared for consumption on the licensed premise. A restaurant shall be equipped with a public dining room with sufficient tables, chairs, cutlery and glassware to serve meals prepared therein. It shall be equipped with a kitchen having complete facilities and utensils for preparing and serving hot and/or cold meals to the public. There shall be employed a sufficient number of staff to serve the number of patrons provided for in the dining room. There shall be on the premises at all times sufficient food to fill orders from the menu. As per Article 2B, there are more specific requirements for restaurants depending upon their location in each respective legislative alcoholic beverages district. The Board will defer to Article 2B concerning requirements for food to alcohol sales receipts, capital investment minimums, and seating capacity in those specific applications for licensure.

(y) “Retail Dealer” means a person who deals in or sells any alcoholic beverage to any person other than a license holder.

(z) “Secured Party” means:

- (1) A person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;
- (2) A person that holds an agricultural lien;
- (3) A consignor;
- (4) A person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold;

(5) A trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or

(6) A person that holds a security interest arising under § 2-401, § 2-505, § 2-711(3), § 2A-508(5), § 4-210, or § 5-118 of Md. Commercial Law Code Ann.

(7) Of note, a Secured Party's interests are subject to any and all restrictions as outlined in Article 2B.

(aa) "State" means the State of Maryland.

(bb) "Total Daily Receipts" generally includes all food and beverages; however it does not include sales of novelty items, income from vending machines, or other receipts not resulting from the sale of food or beverages.

(cc) "Wine" means any fermented beverage, including light wines, and wines the alcoholic content of which has been fortified by the addition of alcohol, spirits, or other ingredients.

Rule 1.02 – Authority

Pursuant to the authority granted by Article 2B of the Annotated Code of Maryland as amended, the Board of Liquor License Commissioners for Baltimore City, Maryland, hereby adopts the following Rules and Regulations to enable the Board to effectively discharge the duties imposed upon the Board by Article 2B. In case of conflict between Article 2B, these Rules and Regulations, and any other provision of Maryland State Law, Article 2B or its equivalent prevails.

Rule 1.03 – Organization

(a)The Board consists of three regular members and one alternate member, all of whom are appointed by the Governor of Maryland. The appointments shall be made with the advice and consent of the Maryland State Senate if it is in session, and if the Maryland State Senate is not in session, by the Governor alone.

(b)The alternate member may serve on the Board if any regular member of the Board is absent or recused. Each appointee shall be a resident and voter of Baltimore City and be an individual of high character, integrity, and recognized business capacity. At least one appointee shall be admitted to practice before the Court of Appeals of Maryland.

(c)The term of a member of the Board shall be 2 years and commences on July 1 of the year of appointment.

Rule 1.04 – Powers

(a)The Board may issue alcoholic beverage licenses authorized under Article 2B within the City.

(b)The Board may suspend or revoke a license, and/or impose a fine on a licensee for a violation of Article 2B and/or these Rules and Regulations, which in the judgment of the Board, is necessary to promote the peace or safety of the community in which the place of business is situated. When a petition for judicial review of an order of suspension is filed the Board, it may stay its order until there is a final disposition by Circuit Court, Court of Special Appeals, or Court of Appeals. When a petition for judicial review of an order to revoke a license is filed, the order may only be stayed by the Court with which the appeal has been filed. For a first offense, the Board may impose of fine of not more than \$500, unless that first offense is for selling alcoholic beverages to a person under the age of 21 years, in which case the Board may impose a fine of not more than \$1,000. For any subsequent offense, the Board may impose a fine of not more than \$3,000.

(c)The Board may adopt rules and regulations and review them at least once every 5 years to ensure compliance with current policies and practices of the Board and Federal, State, and local law.

(d) Upon consent by the licensee, the Board may set reasonable conditions and/or restrictions on the granting of a new license or the transfer and/or renewal of a license when the Board finds it to be in the best interest of the public or to protect the peace and safety of the community.

Rule 1.05 – Legal Representation

A party, applicant, witness, or individual who files a protest or complaint may be represented by an attorney. If a notice is to be given under these Rules and Regulations to or by a person who files a protest or complaint, the notice shall also be given to or by the person's attorney, so long as the attorney has entered his or her appearance in the matter to be considered by the Board.

Rule 1.06 – Severability

If any rule or regulation of these Rules and Regulations is held to be unconstitutional, invalid, or inapplicable to any person or circumstance by the final decision of a Court of competent jurisdiction, all other rules or regulations of these Rules and Regulations and their application to all other persons and circumstances are severable and remain unaffected by the decision.

Rule 1.07 – Time

In computing any period of time prescribed or allowed by these Rules and Regulation, the method of computation provided by the Maryland Rules of Procedure shall govern.

Rule 1.08 – Licenses to be issued by the Board

(a) No new alcoholic beverage licenses shall be issued, except for licenses allowed under Article 2B.

(b) This rule does not prevent the renewal of a license or prohibit the transfer of ownership and/or location of a license, provided that the renewal or transfer is in accordance with Article 2B.

(c) Except as provided in Article 2B, only one alcoholic beverages license may be held by any one person at any one time.

Rule 1.09 – Ancillary Privileges

(a) Ancillary Privileges that Require Application and Board Hearing

(i) **Live Entertainment:** The licensee may provide live entertainment if the entertainment is not disallowed or in violation of the Zoning laws, rules, and regulations of the City, and the licensee submits an application to the Board and obtains approval from the Board at a public hearing.

(ii) **Outdoor Table or Café Service:** The licensee may provide outdoor table or café service, as permitted by the City, upon making an application to and obtaining approval from the Board at a public hearing.

(iii) **Catering Privilege License:** The privilege of providing alcoholic beverages along with catered food may be granted by the Board only after the holder files a catering privilege application with the Board. If the Board approves the catering privilege application, a catering privilege license will be issued. The licensee who holds the special off-sale caterer privilege may contract to provide food and alcoholic beverages for consumption at a catered event. The licensee may exercise the special off-sale caterer privilege only during hours and days that are permitted for the licensee's existing beer and wine or beer, wine and liquor license. A licensee who holds a special off-sale caterer privilege shall have the facilities to prepare and deliver food to the site of the catered event. The City Health Department shall approve the food preparation facilities and issue a caterer's license before the Board adds or renews a special off-sale caterer privilege. A special off-sale caterer privilege may be renewed.

(iv) **Special Amusement License:** The Board may issue a Special Amusement License to a Class D licensee, which will allow them to sell alcoholic beverages during approved types of amusement such as singing, dancing, music (other than recorded music or radio programs), floor shows, acrobatic acts, theatricals or moving pictures. An application to the Board shall be made and approved before issuance of the license.

(b) Other Ancillary Privileges

(i) **Refillable Container License:** a refillable container license entitles the holder to sell draft beer for consumption off the licensed premises in a refillable container with a capacity of not less than 32 ounces and not more than 128 ounces. The applicant shall complete the application process as specified by the Board. An applicant who holds a license without an off premise sale privilege shall meet the same advertising, posting of notice, and public hearing requirements as those for the license that the applicant holds. All sales of draft beer distributed through refillable containers shall end at midnight.

(ii) **Temporary License Premise Extension:** A Temporary License Premise Extension allows a licensee to extend alcoholic beverages service to an area immediately outside the licensed premise and/or an area authorized by the City under an issued permit. Licensees are responsible for ensuring that the sale and consumption of alcoholic beverages from the premises are in a fixed area preventing patrons from leaving the area with an alcoholic beverage.

(I) A license extension may be issued to all annual license holders, except Class A and Class A-2 licensees. The extension authorizes the license holder to sell, serve, and allow consumption of beer, wine, and/or liquor, if applicable, on the premises of the extension area.

(II) To be issued a license extension, an applicant shall submit an application to the Board at least 10 days before the event for which the extension is sought.

(1) The application shall contain or be submitted with a letter specifying:

(i) The purposes of the extension;

(ii) The time, date, and location of the event for which the license extension is to be used; and

(iii) The size of the extension area;

(iv) Proof of all needed permits and approvals from State and local agencies; and

(v) Payment of the application fee.

(III) After a review of the licensee's application, the licensee's temporary license extension past performance and any documentation protesting the application, the Board may issue the permit, unless the Board requires more information or an additional payment from the applicant.

Rule 1.10 – Temporary Special Event Licenses for Non-Profit Clubs/Societies/Associations

(a) A special beer and wine, or beer, wine, and liquor license, license may be issued to a bona-fide club, society, or association, under the Article 2B.

(b) To apply for a license under this Rule, applicants shall submit an application and a letter, on association or club letterhead, to the Board at least 10 days before the scheduled event. In the letter, the applicant should explain to the Board the purposes of the event, the time, date, and location of the event, and the controls that will be put in place to ensure that people under 21 are not served. Submission of a flyer or invitation to the Board detailing all of the needed information will suffice.

(c) If a permit or approval is required by any other governmental agency, the applicant shall provide copies of the permit or approval to the Board before the issuance of the license.

(d) The applicant shall also present documentation from the Internal Revenue Service indicating the applicant's non-profit status. In lieu of the letter, an applicant may also present a copy of a current Maryland State Tax Exempt Card. If the applicant is a subsidiary of a parent or umbrella non-profit organization or has a contractual agreement to fiscally sponsor an eligible organization under this Rule the applicant shall present a letter from the organization stating that relationship.

(e) If the applicant does not have Internal Revenue Service documentation or a Maryland State Tax Exempt Card, the applicant shall present certified copies of the articles of incorporation and the by-laws of the society/association that indicate the membership of the society/association. At the time of application the Board may request State Identification to confirm the applicant's member status in the society/association. This subsection does not apply to the wine sampling license.

(f) If an application for a temporary special event license includes an estimated attendee count of over 500, the Board shall take into consideration, before issuing the license: past performance of the applicant, comments or concerns raised by any City agencies, and any documentation or communications protesting the licensee's application by the public. If upon review of these items, the Board decides not to issue the license, the Board shall inform the applicant in writing of its decision and the reasons for its decision.

(g) The Board's administrative staff may review an application and conditionally approve it, even if all of the information is not provided on the date of application, provided that such information is submitted to the Board in a timely manner.

(h) If an applicant submits an application for a Temporary Special Event License less than 10 days before the scheduled event, the Board's administrative staff may waive the time requirement if there is good cause and consider the application.

Rule 1.11 – Temporary Licenses for Tastings, Samplings, and Festivals

(a) **Beer and Wine Tasting – One Day License:** a special beer and wine license issued by the Board that permits on premise consumption of wine and beer for tasting or sampling purposes subject to Article 2B. Upon application and approval, the Board may issue this license only to a Class A beer and wine licensee or a Class A beer, wine, and liquor licensee.

(b) **Beer, Wine, and Liquor Tasting – One Day License:** a special beer, wine, and liquor license issued by the Board to the holder of a Class A beer, wine, and liquor license to allow for on premise tastings of beer, wine, and liquor. Upon application and approval the Board may authorize the holder to allow the on-premises consumption of beer, wine, and liquor for tasting or sampling subject to Article 2B.

(c) **Wine Sampling – One Day License:** a special license issued by the Board to a bona-fide non-profit that permits the transportation of wine and the consumption of wine for sampling purposes subject to Article 2B.

(d) **Baltimore Wine Festival:** a special Baltimore Wine Festival license entitles the holder to display and sell at retail wine for consumption on or off the licensed premises on the days and hours designated for a BWF.

(e) **Baltimore Beer Festival:** The Board may issue a special Baltimore Beer Festival license for participation in a beer festival to be held on Class B retail licensed premises or on non-licensed premises located in the City, subject to Article 2B.

(e) **Non-Profit Beer Festival:** The Board may issue a special Non-Profit Beer Festival license for participation in a beer festival to be issued to a Non-Profit Organization, as defined by the Internal Revenue Code.

Rule 1.12 – Special Sunday One-Day Licenses for Class A and D Licensees

(a) **Class A – Special Sunday License (Thanksgiving to New Year’s):** The Board may issue to the holder of a Class A alcoholic beverages license a Special Sunday license that allows the holder, subject to Article 2B, to exercise the off-sale license privilege on the Sundays that fall between Thanksgiving Day and New Year’s Day from 1 p.m. and 9 p.m.

(b) **Class A – Special Two Additional Sunday Licenses:** The Board may issue to the holder of a Class A alcoholic beverages license a Special Sunday license that allows the holder to exercise the off-sale license privilege on two additional Sundays during the calendar year subject to Article 2B.

(c) **Class D – Supplemental Sunday License:** The Board may issue a supplemental license no more than (4) times during a calendar year to a holder of a Class D beer, wine, and liquor license. The license authorizes the holder to sell alcoholic beverages from 6 a.m. on Sunday to 1 a.m. the following day, subject to Article 2B.

Chapter 2 Applications and Hearing Procedures

Rule 2.01 – Applicants

(a) **Sole Applicant:** An application by a sole applicant shall include a statement that the applicant has been a resident of the City for at least the 2 years immediately before the filing of the application.

(b) **Partnership:** If an application is made for a partnership, the license shall be issued to all the partners as individuals, all of whom shall have resided in the City for at least the 2 years immediately before the filing of the application. The individuals shall continue to reside in the City as long as they hold the license. If there is only one general partner, the license shall be issued to that partner as an individual, who shall be a registered voter and a resident of the Baltimore City at the time of application. The partner shall continue to reside in the City as long as the partner holds the license.

(c) **Corporation or Club:** An application for a corporation or a club shall be made by, and the license issued to, three of the officers of that corporation or club, as individuals, for the use of the corporation or club. At least one of the individuals shall be a registered voter and taxpayer of the City when the application is filed and shall have resided there for at least 2 years before making the application. The application shall list the names and addresses of all officers of the corporation or club, and shall be signed by the president or vice-president as well as by the three officers to whom the license is to be issued. If a corporation has fewer than three officers or directors, all of the officers or directors shall make the application. If there are no officers or directors of a closed corporation, at least one stockholder may make the application, provided that the stockholders holding a majority of the stock vote affirmatively.

(d) **Limited Liability Companies:** An application for a limited liability company shall be made by, and the license issued to, three of the authorized persons of that limited liability company, as individuals. At least one of the authorized persons shall be a registered voter and taxpayer of the City when the application is filed and shall have resided in the City for at least 2 years prior. . The authorized person shall continue to reside in the City as long as the authorized person holds the alcoholic beverage license. If the limited liability company has fewer than three authorized persons, then all of the authorized persons shall make the application. An authorized person of a limited liability company who holds an alcoholic beverages license for the use of the limited liability company that was granted on or before June 1, 2012 need not be a registered voter in the City.

Rule 2.02 – New/Transfer/Amendment Applications

(a) **Application:** An application for a new license, license transfer, extension of the premises, change of officers, change in resident agent, or class change of a license, shall be made to the Board on a form required by the Comptroller and issued by the Board. The application shall be completed by the applicant or under the applicant's personal supervision and shall be typewritten and/or printed in black or blue ink so as to be legible.

(i) All applications shall be made under oath, subject to the penalties of perjury, and attested to by a Notary Public.

(ii) All applications shall be completed before submission to the Board. A hearing date will not be scheduled until the Board receives a completed application.

(iii) The Board will examine each application for the issuance or transfer of a license to determine its completeness within 45 days after receipt of the application.

(iv) The application is not complete unless:

(A) The applicant has obtained zoning approval or verification of zoning from the City; and

(B) All required documents outlined in the application have been submitted; and

(C) All fines and fees that are due to the Board have been paid.

(b) **Criteria used by Board to Approve an Application:** Before approving an application and issuing a license, the Board shall consider:

(i) The public need and desire for the license;

(ii) The number and location of existing licensees and the potential effect on existing licensees of the license applied for;

(iii) The potential commonality or uniqueness of the services and products to be offered by the applicant's business;

(iv) The impact on the general health, safety, and welfare of the community, including issues relating to crime, traffic conditions, parking, or convenience; and

(v) Any other necessary factors as determined by the board.

(c) **Criteria used by the Board to Disapprove an Application:** The application shall be disapproved and the license for which application is made shall be refused if the Board determines that:

(i) The granting of the license is not necessary for the accommodation of the public;

(ii) The applicant is not a fit person to receive the license for which application is made;

- (iii) The applicant has made a material false statement in his application;
- (iv) The applicant has practiced fraud in connection with the application;
- (v) The operation of the business, if the license is granted, will unduly disturb the peace of the residents of the neighborhood in which the place of business is to be located; or
- (vi) There are other reasons, in the discretion of the board, why the license should not be issued.

(d) **Other factors for Board Determination:** The Board shall also consider any other applicable factors as required in Article 2B before making a determination to approve and issue or disapprove an application.

(e) **Compliance Requirements for Licensees:** Before any new license, transfer of an existing license, extension of the premises of an existing licensed premise, or renewal of an existing license is issued, the licensee shall comply with the requirements of:

- (i) Article 2B , including obtaining a bulk transfer permit, if applicable, and paying all personal property, retail sales, and withholding taxes, if required;
- (ii) The Rules and Regulations of all State and Baltimore City agencies; and
- (iii) Any other conditions or restrictions placed upon the issuance of the license by the Board.

Rule 2.03 – Substitute Applications

(a) **Reporting requirement:** Any changes in the pertinent information contained in any application filed with the Board shall be reported to the Board in a timely manner. This includes, but is not limited to, a change of name, a change of telephone number, a change of address, a death of a licensee, dissolution of a corporation, an election or change of an officer or authorized person who is listed as an applicant or licensee.

(b) **Fees:** Any change on a licensee's application concerning the removal, addition, or substitution of a licensee shall be accompanied by a \$250 application fee and a \$200 issuance fee.

(c) **Substitution of Corporate Officers, Authorized Persons of a Partnership or LLC:** Any change concerning a corporate or limited liability company application requires:

- (i) An application for substitution of corporate officers or authorized persons on the form provided by the Board; and

(ii) An affidavit from an authorized person that provides an explanation of the substitution; and a statement from the entity that more than 50% of the ownership has not changed; and

(iii) A signed letter of resignation from the outgoing corporate official or authorized person; and/or

(iv) A signed copy of the contract indicating that the holder(s) of a license transfer(s) less than 50% of the ownership interest of the licensed premises and the name and information of the transferee; and/or if applicable; and/or

(v) A certified copy of the corporate or limited liability company minutes or resolution indicating the substitution of corporate officer(s) or authorized person(s).

(d) **Substitution of a Secured Party:** If a secured party applies to the Board to substitute its position in place of a licensee in default, the application shall include:

(i) A copy of the security agreement, such as a copy of the signed contract or lease, between the licensee and the secured party; and

(ii) A copy of the letter of default that was sent to the licensee indicating that the licensee was in default concerning the terms of the security agreement and stipulating that the secured party would take action to secure the secured party's interest created by the security agreement; and

(e) **Substitution of a Contract Purchaser:** If a person, corporation, or partnership submits a substitute application for the purposes of being named a contract purchaser the application shall include:

(i) A copy of the bill of sale, which includes the identification of transferee, the contract purchaser, the specific license to be transferred, and a statement stipulating that the purpose of the transaction is for the contract purchaser to sell, and not operate, the license; and

(ii) Signed and notarized transfer authorization and affidavit of compliance by the previous owner.

(f) **Substitution in cases of Death of a Licensee for Personal Representative of Licensee's Estate:** As governed by Art. 2B §10-506(a), upon the death of a holder of a license, the personal representative of the deceased's estate may apply for a certificate of permission, which will allow the personal representative 18 months after the issuance of the license to transfer the license while the affairs of the estate are disposed. The fee for the certificate of permission is \$1. The personal representative's application shall include:

(i) A copy of an official death certificate of the deceased licensee; and

(ii) A certified copy of the letters of administration authorized by the Register of Wills of the jurisdiction of the deceased; and

(iii) Evidence of the identification of the applicant to allow the Board to determine that the applicant is the personal representative of the deceased's estate.

(g) Substitution in cases of Death of a Licensee for Surviving Spouse or

Partner: As governed by Art. 2B §10-506(b), upon the death of a holder of a license, the surviving spouse, the surviving partners for the benefit of the partnership, or the senior surviving officer for the benefit of the corporation may apply for the issuance of a license through the substitution application. The license shall be issued only for the remainder of the license year. The application shall include:

(i) A copy of an official death certificate of the deceased licensee; and

(ii) A certified copy of the letters of administration as authorized by the Register of Wills of the jurisdiction of the deceased; and

(iii) Evidence of the identification of the applicant to allow the Board to determine that the applicant is the surviving spouse, the surviving partners for the benefit of the partnership, or the senior surviving officer for the benefit of the corporation of the deceased.

(h) A new person named to the license as a result of a substitution shall meet the requirements in Art. 2B, § 10-103.

(i) The Board's administrative staff may interview and conditionally approve any person who is proposed by the licensee as the new resident applicant on an existing license. The conditional approval of the staff is subject to final approval by the Board at its next regularly scheduled meeting.

Rule 2.04 – Renewals

(a) Application for Renewal

(i) Application for renewal shall be filed between March 1 and March 31 of each year on forms provided by the Board. The information requested shall be filled in by the applicants or under the applicants' personal supervision and shall be typewritten and/or printed in black or blue ink so as to be legible. The Board may receive a late application and may fine the licensee in an amount not to exceed \$50 for each day the application is late. The overall late fine amount may not exceed \$1500.

(ii) If an expiring license is subject to a restriction or suspension, the new

license will be issued subject to the same restriction or suspension.

(iii) A processing fee of \$50 shall be paid at the time a renewal application is submitted.

(iv) When a renewal application is filed, the Board will review the application in its entirety and any attached documents to determine whether any other information is needed. If the Board determines no more information is needed, the Board will issue the license upon receipt of payment of all outstanding fees and/or fines.

(v) All licensees shall present to the Board by June 30 of the renewal year a certificate issued by the Director of Finance or a compliance letter issued by the City, showing that there are no unpaid taxes or fees due to the City or the State.

(vi) All licensees shall present to the Board of by June 30 of the renewal year a copy of an active Trader's License issued by the Clerk of the Circuit Court of Baltimore City for the applicable license year.

(vii) The Board may not renew the license of a person who during the license year has been convicted of a State or federal offense that the Board determines to be of a nature that renders the licensee unfit or unqualified to obtain a renewal.

(viii) Before a renewal may be denied because of a criminal conviction, the Board shall hold a public hearing at which all relevant facts and circumstances of the conviction are presented.

(ix) A licensee who does not have the renewed license on the licensed premises by opening of business on May 1st may not operate the business and may be charged with a violation of this Rule.

(x) A license renewal may not be granted for the use of the licensed premises in violation of the Zoning Code of the City.

(b) Protest of Renewals

(i) A protest against the renewal of a license shall be filed in a period starting March 1 and ending March 31 of the license year. The protest shall be received by the Board no later than before the close of business on March 31. It shall be signed by not fewer than ten residents, commercial tenants (who are not holders or applicants for a liquor license), or real estate owners in the immediate vicinity of the licensed place of business.

(ii) All protests shall be based on specific complaints concerning the

operation of the establishment.

(iii) No protests or withdrawals of protest will be accepted after the hearing.

Rule 2.05 – Transfer of a License

(a) One or more holders of a license may transfer more than 50% of the ownership interest in the licensed premises only if:

(i) A completed written alcoholic beverage license transfer application is filed with the Board before the proposed transferee begins operation of the business;

(ii) The holder or holders file a transfer affidavit signed by all current licensees of record; and

(iii) All state taxes and local taxes owed by the transferor are paid.

(b)(1) Except as provided in paragraph (2) of this subsection, the Board may not authorize the transfer of a license if money is owed by the transferor to the City or State.

(i) If the transferee gives the Board written certification, under oath subject to penalties of perjury, and attested to by a notary public, that transferee assumes the debt of the transferor, the Board may approve the transfer application contingent upon payment of the debt on or before a date that the Board deems appropriate.

(c) During the hearing on a transfer of ownership at the same location, the Board shall consider the factors outlined in Art. 2B §10-202(a)(2) before determining whether to allow the transfer to occur.

(d) A license may be transferred to an existing location where there already is an alcoholic beverage license. In such cases, the license presently at the existing location may be transferred to new ownership at a new location, provided an application is filed with the Board within 180 days after the date the new license is transferred to the existing location.

(e) (1) If the premises have been closed for more than 90 days prior to the date of application for transfer, the Board shall hold a hearing and consider public convenience and accommodation in determining if the establishment may reopen.

(2) The Board shall consider public convenience and accommodation in determining if an establishment may reopen regardless of the time that an establishment has been closed, if the transfer came about due to creditors' actions or other financial problems, such as transfers to receivers, trustees, secured parties under the Uniform Commercial Code, sheriffs, constables, the Internal Revenue Service, or the Maryland Sales Tax Division.

(3) The Board shall consider public convenience and accommodation in determining whether a license transfer in location may be approved.

(4) As per Art. 2B § 10-202(e)(2)(iv), the Board need not hold a hearing if the closing is caused by fire, casualty, or act of God or when the transfer is due to an action of a creditor.

(f) The licensee shall obtain all the required permits and approvals stipulated by Federal, State, or City departments or agencies, including the Board's own requirements, within 180 days after the applicant receives notice of the Board's approval of the transfer so that the license can be properly issued to the licensee.

(g) All transfers under Article 2B shall be completed within the time stipulated under Article 2B, § 10-503(d)(4), which the Board shall interpret in conjunction with Article 2B, § 10-504(d) and any other applicable federal, State, or local statute.

Rule 2.06 –Notice and Hearings

(a) New Application/Transfer/Amendments:

(i) Before considering a license application the Board shall publish a notice of the application twice a week for two consecutive weeks in three newspapers of general circulation in the City of Baltimore.

(ii) The notice shall specify the name of each applicant, the kind of license applied for, the location of the place of business proposed to be licensed, and the time and place fixed by the Board for a hearing upon the application.

(iii) The hearing on the application will not be held less than 7 days nor more than 30 days after the last date of publication.

(iv) The Board shall cause a suitable sign or notice to be posted and to remain posted for a period of at least 10 days before the hearing in a conspicuous place upon the premises described in the application. The notice shall specify the class of license applied for and the time and place fixed by the Board for hearing.

(v) At the hearing, any person may testify, even if the applicant asks for a postponement.

(vi) At the hearing the Board shall consider the factors listed in Art. 2B, § 10-202(a)(2) in determining whether to approve the action requested.

(b) Violation Notice and Hearing:

(i) Incident/violation reports concerning licensed establishments are generated through various federal, State, and local officials, including Board inspectors. Each report shall be reviewed by the Board staff to determine whether further action by the Board is warranted.

(ii) After conducting a preliminary review of the report, the Board staff may prepare charges alleging the violation of alcoholic beverages rules, regulations, or laws, which would be the subject of a public hearing held by the Board. The charges shall be served on the licensee and presented to the Board at a public hearing.

(iii) At least 10 days before a hearing on a charge against a license holder of an alcoholic beverages rule, regulation or law violation, the Board shall cause to be served upon the license holder a summons containing:

(1) The name and address of the licensee as same appears on the license; and

(2) The rule, regulation or law that the licensee is charged with having violated and the date of the violation if it relates to a specific instance; and

(3) The time and place of the hearing.

(iv) Service upon licensees may be made in numerous ways, including:

(1) Personal Service on the licensee;

(2) Service at the establishment of the licensee;

(3) Service on the attorney or representative of the licensee; and

(4) Service by certified mail.

(v) (1) Service by certified mail may occur after three (3) attempts have been made to serve an employee at the licensed premises during business hours. The Board will send via certified mail a copy of the charging document to all licensees of record using the address (es) that have been submitted to the Board by the licensee(s). In addition to using certified mail, the Board will have the licensed premises posted with a copy of the charging document. The licensee will be deemed served when certified and one (1) regular mailing has been sent and the establishment has been posted.

(2) If it is known by the Board that the establishment has ceased operations due to fire, casualty, act of God, or an action of a creditor; and it is determined that a violation notice is to be served, then the

Board may not attempt personal service. Instead, the Board shall send via certified and regular mail a copy of the charging document to all licensees of record using the address(es) that have been submitted to the Board by the licensee(s).

(vi) The Board will maintain an open file policy. Before the hearing, the public, licensee, or representative of the licensee shall have access to all of the materials that will be used to support the claims alleged against the licensee.

(vii) At the hearing the Board shall hear testimony and may admit evidence to support the allegations with which the licensee has been charged. The licensee will have an opportunity to cross examine and challenge any of the witnesses who testify in support of the allegations. The licensee will then have the opportunity to present a defense to the allegations and present witnesses and testimony.

(viii) The Board shall decide what may be allowed into evidence at the hearing.

(ix) The Board shall decide through a preponderance of the evidence whether a licensee has committed a violation.

(x) If the Board decides that a violation has occurred, the Board may impose a penalty stated in Article 2B, § 16-507.

(xi) Records of any violation of the alcoholic beverages laws or rules and regulations of the Board shall be retained for consideration in connection with a subsequent violation in a manner for which the Board sees fit.

(xii) The Board may determine when to suspend or revoke a license, if the licensee is convicted of the violation and a suspension or revocation is imposed by the Board. Suspensions of license privileges shall be in consecutive days.

2.07 – Submission of Materials to the Board in Preparation for Public Hearings

(a) **Evidentiary Documents:** Generally, a party should submit any document, photo, video or any other evidentiary item for consideration by the Board not less than 48 hours before the public hearing. Any item submitted afterward will be considered and afforded the evidentiary weight that the Board determines is appropriate.

(b) **Postponement Requests:** A request by a party to postpone a case to be heard before the Board shall be in writing and be received by the Board not less than 48 hours before the date of the public hearing. A request submitted afterward shall be reviewed by the Executive Secretary and the Chairman to determine if there is good cause to allow for the postponement.

Rule 2.08 – Protests against the Issuance or Transfer of a License.

(a) **Definitions:** (i) **“Owners of real or leasehold Property”** includes holders of leasehold improvements upon ground rents, the City and the State but excludes the owner of the subject premises. (ii) **“Tenant”** is a person who rents a single-family dwelling and has resided there for at least 1 year immediately preceding the hearing of the Board.

(b) **50% Rule** - An application for a license may not be approved if:

(i) It appears that more than 50 percent of the owners of real or leasehold property within 200 feet of the place of business for which the application is made oppose the granting of a license; or

(ii) More than 50 percent of those owners and tenants in combination of real or leasehold property within 200 feet of the place of business for which the application is made oppose the granting of the license.

(c) **Broader Scope Exception** – This rule applies to an application for a license transfer if the license to be transferred is of a broader scope or more permissive class than the license presently issued for the same premises.

(d) **Instructions to Private Protestants – Owners and Renters:** Should any owner of the dwelling participate as a protestant or proponent of the application, then the owner(s) and the tenant of the dwelling shall each have one-half vote. In case of property rented jointly, if one tenant appears in person at the hearing as a protestant, the other tenant's protest may be recorded by an affidavit. Such affidavit shall include:

(i) A statement that the protestant is the owner or real or leasehold property situated within two hundred feet of the proposed premises; and

(ii) A description of the property; and

(iii) A statement that the affiant is opposed to the issuance or transfer before the Board; and

(iv) A statement of the reason or reasons for the affiant’s failure to appear at a hearing. Good and sufficient reason for failing to appear may not include:

(1) Illness or other physical disability, unless the affidavit is accompanied by a written statement signed by a licensed physician confirming the illness or disability; and/or

(2) Occupation or employment, unless the affidavit is accompanied by a written statement signed by the affiant’s employer; and/or

(3) Absence from the jurisdiction, unless the affiant is located more

than 50 miles from the City or is in military service.

(e) **Instructions to Owners of Public Property** - The City and the State shall be included as owners of real or leasehold property when they own title to a building, and it may protest through an authorized representative of the Mayor and City Council. If the City or the State owns more than one building within 200 feet of the place of business for which a license application is made, then only the building closest to the place of business may be the basis for making a protest.

Rule 2.09 – Membership Clubs

No licensee, except Class C licensee, may restrict the use of the licensed premises or any part of the licensed premises as a membership club without the prior approval of the Board.

Rule 2.10 – Multiple Applications

If an application for a new license, extension, or transfer of a location is denied, the applicant may not reapply for the same license, privilege or transfer for a period of six (6) months after the denial. If an application is withdrawn before the Board makes a decision, this rule shall apply, unless the withdrawal occurs more than forty eight (48) hours prior to the hearing.

Rule 2.11 – Motion for Reconsideration

(a) A licensee or a party of record desiring to request a motion for reconsideration of a decision of the Board shall file the motion within 15 days after the date the decision was issued. The motion is to be addressed to the Chairperson.

(b) The request shall state the reason why the decision should be reconsidered, such as that the decision was a product of fraud, surprise, mistake, or inadvertence, or that some new or different factual situation exists that justifies a different conclusion.

(c) If a licensee or party of record files a petition for judicial review on a matter while that matter is under reconsideration by the Board as per this rule, the Board shall lose jurisdiction to review the moving party's Motion for Reconsideration and the motion shall be considered moot.

Rule 2.12 – Appeals

(a) Any licensee or party of record desiring to petition for judicial review of an order shall file with the Clerk of the Circuit Court for the City a petition for judicial review. The petition shall be filed within 30 days of the order of the Board. A fee of \$100 shall be paid to the Board at the time of filing.

(b) The cost of the transcription of testimony shall be borne by the appellant. Orders for the transcript shall be placed with the stenographer within 5 days after the notation of the petition for judicial review.

(c) Upon receipt of the transcript, the Board's designee, in a timely fashion, shall make four (4) copies of the transcript and deliver the items in the following manner: one copy to be filed with the Circuit Court under the corresponding case number, one copy to be delivered to the Board's appellate counsel, one copy to be delivered to the licensee or the licensee's attorney or representative that requested the transcript; and one copy to be maintained by the Board.

Rule 2.13 – Inspections

In furtherance of its duty under Article 2B, the members of the Board, Board employees, and all other law enforcement officials, while on official business, may inspect all licensed premises on any day and at any time, despite posted hours of operation, without a search warrant. No licensee or licensee agent may refuse to admit any official, while on official business to enter upon the licensed premises and inspect the premises.

Rule 2.14 – Request to reopen after being closed for more than 3 consecutive months

(a) **Procedure:** Before a licensed premise in the City that has been closed for at least 3 consecutive months may be the reopened, the affected licensee shall submit to the Board a "Request to Reopen" that includes the following:

- (i) A request for a hearing and approval to reopen; and
- (ii) The approximate date when the establishment closed; and
- (iii) A check or money order made payable to the "Director of Finance" for \$100.00 to cover the costs of the hearing

(b) **Required Documents to be submitted after Board approval:** Upon being approved to reopen by the Board, the applicant shall submit up to date copies of the following documents and/or information to the Board's Administrative Staff before the license to reopen is issued:

- (i) Trader's License; and
- (ii) City Health Permit (if applicable); and
- (iii) City Use and Occupancy Permit; (if applicable) and
- (iv) Sales Tax License; and
- (v) Verification that the corporation that owns the license is active and in good standing with the State Department of Assessment and Taxation

Rule 2.15 – Hardship Extension Request for Licensed Establishments Closed for 180 days

(a) **Procedure:** In accordance with Article 2B, before a licensed premise in the City that has been closed for up to 180 days may be reopened, the affected licensee shall submit to the Board a “Hardship Extension Request” that includes the following:

- (i) A request for a hardship extension is filed with the Board within the 180 day period; and
- (ii) The approximate date when the establishment closed and/or last date of operation; and
- (iii) A brief description of the undue hardship that led to the closure of the establishment for 180 days; and
- (iv) A check or money order made payable to the “Director of Finance” for \$100 to cover the costs of the hearing.

(b) **Criteria that Board may consider:** Upon review the Board may consider the following criteria when making the determination to grant the hardship extension:

- (i) The nature of the undue hardship as it exists;
- (ii) The testimony and/or evidence submitted on the record of any of the witnesses on behalf of the affected licensee, including the licensee as to why the undue hardship extension should be granted; or
- (iii) Any other reason that the Board deems fit and appropriate.

Chapter 3 Standards of Operation

Rule 3.01 – Ownership and Operation

Every licensee shall be the actual owner and operator of the business conducted on the licensed premises. The identity of any person, not a licensee, having any financial interest in the business shall be disclosed to the Board in writing.

Rule 3.02 - Cooperation

Licensees and their agents and employees shall cooperate with representatives of the Board, the Police Department, Health Department, Fire Department, Building Engineers office, and any grand jury, and representatives of other governmental agencies who are on official business.

Rule 3.03 – Records

(a) Licensee shall keep accurate records of all purchases of alcoholic beverages for 1 year after the date of each purchase. The records shall include the date of each purchase, the quantity purchased, and the name and address of each seller. The records shall be kept on the licensed premises and be made available for inspection by members of the Board, its employees, and all other law enforcement officials.

(b) Licensees, whose licenses authorize consumption on the licensed premises, shall keep accurate records of all sales of alcoholic beverages so that a determination may be made of what portion or percentage of sales are in sealed packages or containers for consumption off the licensed premises. The records shall be kept on premises and available for inspection by members of the Board, its employees, and all other law enforcement officials.

(c) Licensees shall keep on their premises records containing the legal names, aliases, addresses, ages, and the last four digits of the respective Social Security numbers of all of their employees. The records shall be kept on the licensed premises and be made available for inspection by members of the Board, its employees, and all other law enforcement officials.

(d) Licensees shall have applied, or have proof of application, for: (i) a certificate issued by the Director of Finance of the City showing that there are no unpaid taxes on the merchandise, fixtures and stock of the applicant due to the City or the State; and (ii) a trader's license issued by the Circuit Court of Baltimore City.

Rule 3.04 – Keg Registration

(a) The sale of containers of beer for off-premise consumption with a capacity of least four gallons or more, e.g., party balls and kegs, may be made if the following requirements are met:

- (1) The licensee shall provide to the purchaser a keg registration form approved and distributed by the State Comptroller that is designed to be affixed to the keg and that indicates the name and address of the licensed establishment and a registration number.
- (2) The purchaser shall provide valid identification and complete and sign a registration form with the following information:
 - (i) The purchaser's name and address as shown on the identification produced;
 - (ii) The date of birth of the purchaser; and
 - (iii) The date of the purchase.
- (3) The licensee shall affix the completed registration decal on the keg at the title of purchase.
- (4) The licensee shall remove the registration decal from the keg upon its return by the purchaser and before the keg is returned to the beer wholesaler.
- (5) The licensee shall retain the completed keg registration booklet on the license premises for at least 30 days.

(b) The licensee may charge the purchaser a fee to cover administration and processing expenses.

(c) A licensee who violates this rule is subject to a fine not to exceed \$100 or a suspension or revocation of the licensee's license or both a fine and suspension or revocation.

(d) A completed registration form signed by the purchaser creates a presumption that the licensee has complied with this Rule.

Rule 3.05 – Alcohol Awareness Certification

(a) A licensee or an employee of a licensee shall complete a retail alcoholic training course by an approved alcohol awareness program as approved by the State Comptroller. The certification shall be renewed every 4 years.

(b) A copy of the alcohol awareness certification shall be on the licensed premises and be made available on request to a Board inspector or any other applicable State or City law enforcement officer while on official business.

Rule 3.06 – Signs and Hours of Operations

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

(b) A licensee shall have a copy of the licensee's license in a frame and/or displayed in a conspicuous area that is visible to the public. The licensee shall present the license on request to an authorized public official.

(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 3.07 – Lighting

(a) **Exterior Lighting:** A licensee shall provide sufficient exterior lighting to clearly and distinctly illuminate the entries and exits of their establishment. In accordance with the laws of the City, a licensee may not use a strobe light to illuminate the licensee's establishment.

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

Rule 3.08 – Sanitation and Safety

(a) Licensees shall operate their establishments in accordance with the requirements of the Department of Housing and Community Development and the City Police Department, and any other applicable City, State or Federal laws, rules, or regulations.

(b) Licensees shall provide containers for the disposal of garbage and refuse material. The containers shall conform with the requirements of the City. Licensees shall keep the containers covered at all times and shall remove all refuse material regularly.

(c) Signs requiring that all employees wash their hands after use of the bathroom shall be prominently posted in the kitchens and bathrooms used by a licensee's employees.

Rule 3.09 – Rest Room Facilities and Health Regulations

(a) Licensees, except Class A and Class A-2 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 3.10 – 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 3.11 – Delivery of Alcoholic Beverages

(a) **Registration Process:** All licensees desiring to deliver alcoholic beverages shall complete a delivery registration form with original signatures of the licensees and receive a letter of authorization from the Board before deliveries may be made. Delivery approval will be noted on the licensees' licenses.

(b) **Delivery Protocols and Limitations:**

(i) Each delivery person shall be an employee of the licensee. A retail delivery person shall be at least 18 years of age.

(ii) Alcoholic beverages shall be delivered in a sealed package or container. No mixed drinks may be delivered.

(iii) To complete delivery of a shipment, the delivery person shall require from the intended recipient at the address listed on the shipping label:

(1) The signature of the intended recipient who is at least 21 years old; and

(2) A government-issued photographic identification showing that the intended recipient is at least 21 years old.

(iv) A delivery person shall refuse delivery if the intended recipient:

(1) Is under 21 years old;

(2) Refuses to sign the form required under subparagraph (v) of this paragraph, or

(3) Appears to be intoxicated.

(v) Each delivery shall be acknowledged by the intended recipient through the completion of a delivery form, a copy of which shall be provided to the intended recipient.

(vi) The original delivery forms and/or approved electronic records of sales shall be made available to the Board's inspectors on inspection of the licensee's premises.

(vii) On-Line Delivery Service – Licensees that provide delivery service upon request by customers through any mode of electronic contact (e.g. smartphone application, or internet on-line purchase, etc.), shall deliver those alcoholic beverages in accordance with this section.

(viii) Deliveries may not be made to another licensed establishment.

- (ix) Deliveries may be made only within the City.
- (x) Class A Wine and Beer licensees may deliver beer and wine.
- (xi) Class A Beer, Wine and Liquor licensees may deliver any type of alcoholic beverage.
- (xii) Class B/D, (beer only) licensees may deliver beer only.
- (xiii) Class B/D, beer and wine licensees may deliver beer and wine.
- (xiv) Classes B, D, and BD7, beer, wine and liquor licensees may deliver any type of alcoholic beverage.
- (xvi) The privilege of delivering alcoholic beverages may be withdrawn immediately by the Board if a restriction is not followed.

Rule 3.12 – General Welfare

Licensees shall operate their establishments in such a manner as to avoid disturbing the peace, safety, health, quiet, and to promote the general welfare of the community.

Rule 3.13 – Bottle Service

(a) **Definition:** “Bottle Service” means the sale of a bottle(s) of a non-brewed Alcoholic Beverage, not to exceed 750 ml, to a party of three or more individuals for the purpose on premise consumption at the licensed premises.

(b) **Limitations to Bottle Service:** A licensee may offer Bottle Service a patron if:

- (i) The license issued to the premises allows for on premise consumption;
- (ii) The licensee provides such service only to patrons who are seated at a reserved table, dedicated bar, or other cordoned-off area designated for Bottle Service;
- (iii) If applicable, the licensee provides sufficient mixers – such as juices, tonics, sodas, etc. – ice, and glasses for the patrons to utilize in consumption of such beverages for each separate bottle purchase;
- (iv) The licensee assigns a staff member to mix the non-brewed Alcoholic Beverages for the patrons receiving Bottle Service upon request; and
- (v) The licensee assigns personnel to the area designated for Bottle Service to maintain proper control of the area

(c) **Prohibitions on Drinking from the Bottle:** Patrons who purchase Bottle Service may not be allowed to drink directly from the bottle.

(d) **Patrons Cannot Take Bottle from Premises:** Licensees that provide Bottle Service shall prohibit any patron from leaving the premises with the purchased bottle(s) of non-brewed Alcoholic Beverage(s).

(e) **Licensees May Store Patron Purchased Bottles:** Licensee may offer to store the non-brewed Alcoholic Beverage(s) that were purchased via Bottle Service on their premise for the purpose of on premise consumption by the patron on the premises on a future date.

(f) **Licensee to be held Accountable:** The licensee does not abdicate responsibility to ensure that operations conform to Article 2B and BLLC Rules and Regulations just because the licensed premises allows patrons to serve themselves. The licensee shall be held responsible for any violations of Article 2B and/or BLLC Rules and Regulations caused by patrons that purchase Bottle Service.

Chapter 4 Operations

Rule 4.01 – Minors

(a) **Sales to Minors:** A licensee or any employee or agent of the licensee may not sell or furnish any alcoholic beverages at any time to a person under 21 years of age for the underage person's own use or for the use of any other person.

(b) **Employment of a Minor:** A licensee may employ a person 18 years of age or older to sell, serve, deliver, or otherwise deal with alcoholic beverages.

Rule 4.02 – Inebriates & Drug Addict

(a) A licensee or an agent or employee of the licensee may not sell or serve any alcoholic beverage to an intoxicated person, a person who appears to be under the influence of alcohol or drugs, or a person who acts in a disorderly manner.

(b) A licensee or an agent or employee of the licensee may not permit an intoxicated person, a person who appears to be under the influence of alcohol or drugs, or a person who acts in a disorderly manner, to consume or possess an alcoholic beverage on the licensed premises.

(c) The licensee, his or her agent(s), and/or employee(s) shall determine that the person to whom the sale or service is made, or who is consuming or possessing an alcoholic beverage on the licensed premises, is not intoxicated, under the influence of alcohol and/or drugs, or acting in a disorderly manner prior to the sale, service, possession or consumption of any alcoholic beverage.

Rule 4.03 – Solicitation

(a) A licensee may not permit an employee, agent, or a patron of the licensee's establishment to solicit for himself or others the purchase or use of any product or entertainment device within the licensed premises.

(b) A licensee may not pay or offer to pay a commission, gratuity or fee in money, goods or other consideration for or in connection with the sale of a product or the use of any amusement or entertainment device. This subsection does not apply to a licensee who has been issued a license under Art 2B § 6-201(d)(6)(d-1).

(c) A licensee may not employ a solicitor, salesman, or frequenter to solicit, outside of the licensed premises, orders for the sale of alcoholic beverages. A sale may not be consummated outside of the licensed premises.

(d) A licensee may not employ or use a loud speaker or other sound-making or amplifying device that projects the sound outside the licensed premises solicit orders for alcoholic beverages.

Rule 4.04 – Free Food and Prizes

(a) Except as provided in paragraph (i) of this subsection, a licensee may not offer free food to encourage the sale of alcoholic beverages.

(i) Licensees may offer free cheese, hors d'oeuvres, crackers, pretzels, nuts and the like in connection with the consumption of alcoholic beverages on the premises.

(b) Alcoholic beverages may not be sold or given away as prizes in connection with the playing of a game or device.

Rule 4.05 – Prohibited hours

(a) A licensee may not permit a person, including an employee, patron, and family member of an employee or agent of the licensee, to consume alcoholic beverages on the licensed premises during hours when alcoholic beverages sales are prohibited by law.

(b) Alcoholic beverages may not be served, dispensed, furnished or given away in any part of the premises during hours when alcoholic beverages sales are prohibited by law.

Rule 4.06 – Alcoholic Beverage Containers

(a) A licensee may not reuse or refill a bottle or other container of alcoholic beverages, unless it is a refillable container under Art. 2B, § 8-203(e). A licensee may not adulterate, dilute, or fortify the contents of a refillable container.

(b) A licensee may not sell, serve or furnish alcoholic beverages, other than beer or wine, by the bottle for consumption on the premises.

Rule 4.07 – Open Containers and Illegal Possession and Consumption of Alcoholic Beverages

(a) A licensee or an agent or employee of the licensee may not permit a person to leave the licensed premises with an alcoholic beverage, unless it is wine in a bottle that has been properly recorked or recapped.

(b) A licensee may permit a patron who has purchased a bottle of wine and who has partially consumed the bottle of wine with the meal to leave the licensed premises with the partially consumed bottle of wine, if the bottle has been corked or capped by the licensee or an employee of the licensee.

(c) A licensee may not permit a person to consume alcoholic beverages not permitted to be sold at any place on the licensed premises or in the building in which the licensed premises are located.

(d) A licensee or an agent or employee of the licensee may not permit a person in the package sale area and allow a customer to consume or open any alcoholic beverage on the licensed premises.

(e) A licensee may not allow patrons that purchase items for off or on premise consumption to loiter in front of the establishment and openly consume alcoholic beverages within the public right of way directly in front of the licensed premise.

Rule 4.08 – Relations with Wholesalers

(a) A licensee may not purchase alcoholic beverages except from a licensed manufacturer or wholesaler. A licensee may not sell to any other licensee alcoholic beverages. A licensee may not keep or permit to be kept upon the licensed premises any alcoholic beverages unless purchased in accordance with this section.

(b) (1) Except as provided in paragraph (2) of this subsection, a licensee may not solicit or accept directly or indirectly a gift of alcoholic beverages, a tie-up advertisement in newspapers or other periodicals, or a gift or rebate of any sort, from a manufacturer, wholesaler, or person engaged in the distribution of alcoholic beverages; (2) A sign, display or any other form of advertisement or a thing of value not in excess of \$150.00 may be solicited or accepted from a brewer or beer wholesaler. If manufactured directly by the beer wholesaler, then the value of the sign cannot exceed or \$50.00.

(c) A licensee may not have an interest in the business of any manufacturer or wholesaler of alcoholic beverages. A manufacturer or wholesaler may not have an interest in the business of any licensee.

Rule 4.09 – Drive-In Dispensaries

Alcoholic beverages may not be sold, served or consumed anywhere on the licensed premises of licensees maintaining drive-in or curb-service dispensaries, except inside permanent buildings situated on the premises and provided for such purposes.

Rule 4.10 – False Statements

An applicant for a license or a licensee may not make a false statement, material or otherwise, in an original application for an alcoholic beverage license, renewal application, letter or written statement, in testimony before the Board or to any other representative of the Board conducting an official investigation.

Rule 4.11 – 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 4.12 – Gambling

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

Rule 4.13 – Drugs and Illegal Narcotics

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

Rule 4.14 – Live Entertainment without Authorization

(a) A licensee shall only provide “live entertainment” or special amusement if he/she has obtained “Live Entertainment” approval by the City and this Board.

(b) Examples of live entertainment include: musical acts (including karaoke), theatrical acts (stand-up comedy), plays, revues, dancing, magic acts, disc jockeys (performing with amplified microphones and equipment), and similar activities.

Rule 4.15 – Sexual Practices and Obscenity

(a) A licensee may not permit the licensed premises to be used for any sexual activity. A licensee, any employee, patron or frequenter may not solicit any person for prostitution or other immoral purposes.

(b) A licensee may not permit a person to appear in an act or other performance with breasts or the lower torso uncovered. A licensee may not knowingly permit the licensed premises to be used for the conduct, exhibition, or any unlawful performance.

(c) Section (b) of this rule does not apply to licensees that have a valid adult entertainment license issued by this Board.

Rule 4.16 – Illegal Conduct

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

Rule 4.17 – Storage

(a) A licensee may not store or keep alcoholic beverages, except on the premises covered by the license or at a public or government controlled warehouse having a permit issued under Article 2B of the Maryland Code.

(b) A licensee may not store or keep alcoholic beverages, on the premises, unless the alcoholic beverages are at least 6 inches above the ground.

Rule 4.18 – Alterations

(a) A license holder may not make an alteration or addition to licensed premises or change the manner in which alcoholic beverages are dispensed without obtaining permission from the Board.

(b) A licensee may not make installations or alterations on the licensed premises without obtaining the required permits and approvals from the City.

Rule 4.19 – Gifts

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

Rule 4.20 – Prohibited Activities by License Type

(a) **Class A and Class A-2: No On-Premise Consumption:** The holders of a Class A and Class A-2 license shall not allow patrons that purchase alcoholic beverages for off-premise consumption to consume those alcoholic beverages on location of the premises at any time during the operation of the business, except where provided for by Article 2B.

(b) **Class B Licensees: Functional Kitchen:** The holders of a Class B license shall have on premises:

(i) A fully functioning kitchen having complete facilities and utensils for preparing and serving hot and/or cold meals to the public. It shall have a wait staff available to take order and deliver food to customers; and

(ii) The premises shall maintain a menu advertising the serving of a variety of meals. There shall be on the premises at all times sufficient food to fill orders from the menu; and

(iii) Invoices of food purchases shall be available for presentation to Board inspectors or other law enforcement officials upon request.

(c) **Class BD7 Licensees: Open and Operating Tavern at all times**

(i) **Definitions:** In this rule, the following words have the meanings indicated:

(1) “Bar” means a counter, regardless of configuration at which stools or chairs have been placed and from which alcoholic beverages are habitually served for on premises consumption.

(2) “Package goods area” means an area: (1) within the licensed premises that has as its primary activity the sale of package goods; and (2) in which on premises consumption does not regularly take place.

(3) “Tavern” means an establishment where alcoholic beverages are habitually served for on premises consumption at a bar or in a lounge area that may not be separated from the public by a fixed barrier.

(4) “Tavern operations” includes all Class BD7 licenses.

(a) Although a new separate package goods area may not be constructed, a BD7 licensee who has operated under a previously approved separate package goods store, department or section may continue operations.

(b) A Class BD7 license may not be transferred in ownership unless the subject premises conform to a tavern as defined in this rule.

(ii) **Prohibition:** The holder of a Class BD7 license shall grant all patrons access to a fully operating tavern portion of the licensed premises, wherever that may be on the premises, whenever the packaged goods area is open and operating.

(1) A fully operating tavern shall have a counter regardless of configuration, at which stools or chairs have been placed and from which alcoholic beverages are habitually served by a bartender for on premises consumption. There may be no barrier or partition separating the patrons of the establishment who wish to drink on premises from the bartender.

(d) **Class C Licensees: May not be Open to the General Public:** Class C establishments are prohibited from granting the general public access to the licensed premises. Class C establishments are open and operating for the purposes of serving their membership. To that end, all Class C licensees shall have on site and available for inspection by Board inspectors or other law enforcement personnel, the following:

(i) A daily sign-in sheet documenting when members and their guests visit the club.

(ii) A Members log that details membership and dues information for each active member of the club.

Appendix 1

Class Type	Description	Annual Cost	Days and Hours of Operation
Package Sales – Class A – Off Premise Sale Only			
Class A	Beer & Wine	\$110.00	Off Sale package goods - no on-premises consumption - 6 days per week, 6:00 a.m. - Midnight. No Sunday sales except Sundays between Thanksgiving Day and New Year's Day upon issuance of a special license for each Sunday.
Class A	Beer, Wine & Liquor	\$858.00	
Class A – 2	Beer, Wine & Liquor	\$858.00	Off Sale package goods - 6 days per week - 9:00 a.m. - Midnight. No Sunday sales except Sundays between Thanksgiving Day and New Year's Day upon issuance of a special license for each Sunday.
Restaurants and Hotel – Class B – On/Off Premise Sale			
Class B	Beer & Wine	\$165.00	7 days per week, 6:00 a.m. - 2:00 a.m.
Class B	Beer, Wine & Liquor	\$1320.00	
Class B	LBHM Hotel/ Motel	\$6500.00	
Taverns, Arenas and Racetracks - Other Class – B- On/Off Premise Sale for BD7; On Premise Sale Only Arena/Racetrack			
Class BD7	Beer, Wine & Liquor	\$1320.00	7 days - 6:00 a.m. to 2:00 a.m. * If in Park Heights Redevelopment Area then hours of sale begin at 9 am. See Art. 2B §8-203*
Class B	Arena License	\$12,000.00	7 days, 6:00 a.m. - 2:00 a.m. Issued to stadiums, arenas and large multiple bar facilities
Class B	Racetracks	\$55.00/per day	7 days, 6:00 a.m. - 2:00 a.m. on dates issued
Clubs and Fraternal Organizations – Class C – On Premise Sale Only			
Class C	Beer & Wine	\$82.50	7 days, 6:00 a.m. - 2:00 a.m.
Class C	Beer, Wine & Liquor	\$550.00	
Taverns and Brew Pubs – Class D – On/Off Premise Sale			
Class D	Beer & Wine	\$165.00	6 days, 6:00 a.m. - 1:00 a.m. **4 Sundays a Year” Supplemental Available for Class D as per Art 2B §11-503.
Class D	Beer, Wine & Liquor	\$825.00	
Class D	Beer (Brewery)	\$150.00	
Other License Types – Casino and Golf Courses – On Premise Sale Only			
Class LM-G	Golf Course	\$600.00	Sales and Consumption allowed at all times that facility is open and operating
Class VLF	Video Lottery Facilities (Casino)	\$15,000.00	

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



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BOARD OF LIQUOR LICENSE COMMISSIONERS
FOR BALTIMORE CITY

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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.