

CITY *of* BOSTON

MAYOR'S OFFICE OF
CONSUMER AFFAIRS & LICENSING



ENTERTAINMENT LICENSING RULES AND REGULATIONS

MICHELLE WU, MAYOR

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NOVEMBER 2021

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RULES AND REGULATIONS OF THE MAYOR'S

CONSUMER AFFAIRS AND LICENSING: LICENSING DIVISION

A. GENERAL

1. Any person or entity that has received an entertainment license ("the licensee") shall keep the license at the location cited thereon, and, shall surrender it to any person designated by the Director of Consumer Affairs and Licensing ("Director") calling therefore, and shall display it to any person requesting to see it.
2. The licensee, his agents, principles and partners shall be liable to adhere to the terms and conditions of the license.
3. A current list of all employees shall be available upon request of authorized agents of the Mayor's Office of Consumer Affairs and Licensing, Licensing Division ("Licensing Division" or "Division").
4. The licensee shall allow any person designated by the Director including the Boston Police to enter, to inspect, to view any exhibition or show, and to participate in any Amusement.
5. The licensee shall hire at his own expense a police and fire detail as the Director shall require.
6. The licensee shall obtain all leases and permits as required to occupy said location lawfully.
7. The licensee shall conform to the applicable provisions of the Boston Zoning Code and State Building Code, obtaining a Certificate of Use and Occupancy from the Inspectional Services Commissioner if so required by these codes.
8. The Licensing Division may, in its discretion and upon proper notice, require a licensee to appear before it for a meeting to address general

questions about the licensed operation, including whether the licensee is adhering to representations made during the application process; details regarding the entertainment; and other issues pertaining to the conduct of the premises in general.

B. SAFETY

1. As required by the Fire Commissioner, the licensee shall maintain unobstructed means of egress and means of access, and shall remove combustible materials.
2. The licensee shall not allow any person to obstruct aisles, passageways, landings, or stairways.
3. The Fire Commissioner shall approve the substances and position of the following decorations: seating and other furnishings, interior finishes, 35 mm or larger film, smoking areas, and easily accessible firefighting apparatus.
4. The licensee shall allow members of the Fire Department, in case of fire to exercise exclusive control and direction of his employees and of the means and apparatus for extinguishing the fire.
5. There shall be no disorder, indecency, prostitution, lewdness or illegal gambling on the licensed premises or any premises connected therein by an interior communication.
6. No device or electronic equipment shall be utilized by any licensed premises for the purpose of signaling employees that agents of the Licensing Division are present.

7. Any police complaints and/or reports presently on file shall continue in force until disposed of by this Division.
8. Licensees must provide reasonable cooperation to police officers and other authorized agents of the Licensing Division in the performance of their duties.
9. Licensees are to call for police assistance where necessary to alert police to unlawful activities, to protect patrons and members of the public from disruptive incidents, to clear the premises and the vicinity from unruly persons where needed, to provide assistance to injured persons, and on other occasions where police assistance is needed to preserve the public safety and order.
10. Licensees must disperse patrons from the establishment and away from the vicinity in a safe, orderly, and timely fashion.
11. Persons waiting outside the licensee's establishment in order to enter must be organized in an orderly line that is supervised and monitored by the licensee.
12. Nightclubs are prohibited from using pyrotechnical displays, as per the Mayor's Executive Order of March 3, 2003. A nightclub is defined as an establishment that is licensed for dancing in combination with either disc jockey or live music. The use of such a display at any other type of establishment may only be featured upon the licensee obtaining all necessary approvals for such from the Fire Commissioner and other applicable authorities. (Appendix A)

13. Establishments which are licensed as nightclubs or licensed for non-live entertainment beyond the hours of 12:00 a.m. are required to adhere to the requirements relative to security staff as set forth by Mayor's Executive Order of March 14, 2007. (Appendix B)

C. ADMISSIONS POLICIES

1. Any admission fee must be clearly and conspicuously posted. Patrons must be given receipts upon payment of admission fee.
2. No licensee shall make any distinction, discrimination, or restriction on account of race, color, religious creed, national origin, sex, age, disability, sexual orientation, ancestry relative, gender identity or expression, military status, marital status or parental status to the admission or treatment of any person. All licensees must be in compliance with all relevant provisions of the Ordinance establishing the Boston Human Rights Commission. (City of Boston Code, Chapter 12-9.)
3. Licensees may not require any particular manner of dress for any members of the public, or have a door policy for admission of patrons consisting of VIP cards or give any special admission privileges to any particular member of the public unless such dress code and special admission policies are posted at a place on the premises where all members of the public may read it.

D. BUSINESS OPERATIONS POLICIES

1. Licensees shall not engage in any unfair or deceptive act or practices in the course of their business.
2. The Manager of Record of the Licensed Premises must not be changed until the Division has approved such change.
3. The licensee shall conform to all applicable laws.
4. Any licensee intending to close his place of business must notify the Division in writing before such closing and he shall state in his notice the reason and length of such closing.
5. No licensee shall contract bills for his licensed place under any corporate or trade name other than that under which he is licensed.
6. Licensees shall immediately notify the Division of any proceedings brought against them or any proceedings brought by themselves under the Bankruptcy Laws.
7. Licensees shall immediately notify the Division of any court proceedings which may affect the status of any license granted by the Division.
8. Assignment of the licensees' corporate stock, for the purpose of safeguarding the assignee in loans, etc., gives no right to such assignee to conduct the business of the licensee; therefore, licensees must notify the Division immediately when the assignee forecloses under such assignment of stock.

E. ENTERTAINMENT PRACTICES

1. Noise from said entertainment shall be inaudible from any public way or from any abutting premises if maintained within a building, and

shall be inaudible at a distance of 100 yards if maintained outside. All amplifiers shall face the licensed premises and not the street.

2. The view of one spectator shall not be unreasonably obstructed by another spectator.
3. The entertainment and dancing must be confined to the designated place provided for the purpose, and approved by the Division pursuant a letter of conditions.
4. At all times the entire area must be continuously illuminated to the degree of not less than (1) one foot candle (measured thirty (30) inches from the floor) except those portions of the room under furniture (Chapter 140, section 183 refers to lighting regulations from the Commissioner of Public Safety).
5. A disc jockey is defined as an employee, or other person acting on behalf of a licensed establishment, who as a significant part of their duties operates the musical selections at the establishment, and is also seen or heard by patrons in some noticeable manner.
6. Licensee must close all doors and windows whenever live entertainment is being offered, and must shut all doors and windows by 11:00p.m.regardless of the type of entertainment being offered. In addition, the Licensing Division, as an exercise of its valid discretion, may order an earlier closing of doors and windows at an establishment as a condition aimed at achieving safety and order and prevention of unreasonable noise.
7. Licensees offering live entertainment are required to maintain adequate illuminating of exterior entrance areas. In addition, the exterior entrance area and interior areas of the establishment must be monitored by a security camera system capable for retaining images for at least 72 hours.

F. UNDER 21 EVENTS

1. Establishments licensed for entertainment categories of disc jockey, dancing and/or live music shall request for permission in writing to the Licensing Division for events permitting patrons under the age of 21 years. Applicants will need to submit the following details at least seven (7) days prior to the event date and time for approval:
 - a. location of event
 - b. purpose of event
 - c. event format
 - d. intended date(s) and time(s)
 - e. what age groups are permitted (ex. 18 plus, all ages)
 - f. what kind of entertainment will be featured
 - g. measures that will be in place if there is service of alcohol for those 21 and over (ex. wristbands, stamps, designated drinking areas, alcohol compliance staff, etc.)
 - h. whether event is a private event or public event
 - i. if private, applicant must submit a guest list and rental contract
 - i. admission fee charged, if any
 - j. security plan (personnel, identification, duties, etc...)
 - k. dispersal plan for closing hour

G. ADULT ENTERTAINMENT

1. NUDE ENTERTAINMENT

- a. It is forbidden to employ or permit any persons in or on the licensed premises while such person is unclothed or in such attire as to expose to view any portion of the areola of the female breast or any portion of the pubic hair, cleft of the buttocks, or

genitals, except with specific approval of the Division upon a petition seeking nude entertainment See Amendment No. 38 of Section 3-1 of the Boston Zoning Code.

- b. It is forbidden to permit any employee or person in or on the licensed premises to promise, offer, suggest or accept sexual acts or favors in exchange for money or for the purchase of any alcoholic beverages or other commodities.
 - c. It is forbidden to encourage or permit any person in or on the licensed premises to touch, caress, or fondle the breasts, buttocks, or genitals of any other persons.
 - d. It is forbidden to employ or permit any person to wear or use any device or covering exposed to view which simulates the breasts, buttocks, pubic hair, or genitals or any portion thereof.
 - e. It is forbidden to employ or permit any person in or on the licensed premises to perform any act or acts, or to simulate an act or acts of:
 - (i) sexual intercourse, masturbation, sodomy, flagellation or any sexual acts prohibited by law; or
 - (ii) touching, caressing, or fondling of the breasts, buttocks, or genitals of another.
2. It is forbidden to employ or permit any person in or on the licensed premises to show motion picture films, television-type cassettes, still pictures, or any simulation of any of the acts, prohibited in the preceding rule of these Rules and Regulations.
3. All areas where dancers perform shall be separated by a walkway of at least two (2) feet in width between any stage or platform and areas where drinks are served and consumed.

4. If you are restricting admission for entertainment to adults as a matter of prevailing practice, the premises must be licensed within the Adult Entertainment District. The only exception allowed is if this premises has been restricted to adults continuously since November 26, 1974 or prior thereof.

H. AMUSEMENT RIDES

1. With respect to any mobile amusement ride, the licensee shall obtain such liability insurance as the Director shall prescribe and a separate license from the Commissioner of Public Safety for each ride.

I. AUTOMATIC AMUSEMENT DEVICES (A.A.D.)/VIDEO GAMES/GAMES

1. Coin or token operated devices shall be approved by the State's Division of Standards.
2. Automatic Amusement devices licensed by the Division shall be so installed on the premises as to be in open view at all times while in operation and shall at times be available for inspection. The licenses issued by the Division shall be at all times posted in plain view as close to the machine as practicable.
3. The licensee must supply the following information to the Division: (1) Name of Vendor; (2) Manufacturer and manufactures' serial number; and (3) Vendor's name and address.
4. Request for more than (4) A.A.D.s will require a Use & Occupancy Certificate with the application for automatic amusement devices and other games.

J. DRUG PREVENTION

1. The licensee must actively monitor the licensed premises, including a periodic scheduled inspection of the restrooms to prevent the utilization of the restrooms for drug use, sale or dissemination.
2. The licensee must actively monitor secluded sections of the licensed premises to prevent illegal activity, particularly drug activity, from occurring.
3. The licensee must regularly inform all employees of their affirmative duty to report all suspicious activity to management who shall make reports to the Boston Police Department's liaisons to the Mayor's Office of Consumer Affairs and Licensing or to the Boston Police Department directly. Suspicious activity includes, but is not limited to, the following:
 - i. a frequent pattern of public telephone use on the premises by certain patrons or employees;
 - ii. a frequent pattern of patrons trafficking to certain secluded areas of the premises, such as an isolated booth, or a back room;
 - iii. a frequent pattern of particular patrons being approached by other patrons with evidence of money, envelopes, known illegal drug paraphernalia or other suspicious items;
 - iv. the presence on the premises of illegal drug residue, or drug paraphernalia (e.g. vials, cellophane packets, cut straws, needles, roach clips, etc.).
4. The licensee must actively monitor the immediate area outside the licensed premises to prevent illegal drug traffickers from using the premises as a base for their operations. The licensee must report any suspicious activity to the Boston Police Department's Liaisons to the Mayor's Office of Consumer Affairs and Licensing or to the Boston

Police Department directly. Suspicious activity includes, but is not limited to, the following:

- i. certain patron(s) frequently entering and exiting the premises more often than other patrons;
 - ii. certain patron(s) frequently being approached inside or outside the premises with evidence of money, envelopes and/or known illegal drug paraphernalia;
 - iii. certain patron(s) frequently interacting with individuals in vehicles parked in front of the premises.
5. Likewise, the licensee should inform all employees that their illegal drug use and any other drug-related activity will not be tolerated, and the licensee should develop employee disciplinary measures to handle such illegal activity.

K. APPLICATION AND LICENSE REVIEW

1. The Licensing Division reserves the right to change or add to the terms and conditions of a license, including times of operation, notice and opportunity for a hearing to the licensee.
2. The licensee shall indemnify and hold harmless the City of Boston and its employees from any damage it may sustain, or be required to pay, by reason of said entertainment or by reason or any act of neglect of himself or his agents relating to such entertainment, or by reason of any violation of the terms and conditions of its license.
3. The license is subject to suspension, revocation, or forfeiture for breach of any of its conditions or regulations, or any law of the Commonwealth.

4. The license is issued and may be revoked or suspended pursuant to the following provisions, as applicable: C.B.C. Ord. 17 13.1-13.6; M.G.L. c. 4, 43, 136 and 140; St. 1821 c.110s. 14 and st. 1908 c.494 as amended St. 1913 c.280; and applicable regulations and orders of the Director. Licensee must be in complete compliance with all applicable codes, ordinances, statutes, and rules and regulations of this Division.
5. An entertainment license is **non-transferable**. A licensee shall not sell, trade, gift or in any other fashion transmit a license to any other party.
6. All parties filing applications to the Licensing Division, including new applicants and existing licensees seeking changes to their licensure, are required to follow the procedures for the processing and administration of such applications as set forth by the Licensing Division, including the instructions and requirements provided on the various application forms provided by the Licensing Division for these purposes. Applicants must provide required documentation in support of their application, appear at hearings scheduled to consider applications, satisfy publishing and hearing notification requirements, and otherwise satisfy requirements associated with applications as set forth by the Licensing Division. Failure to comply with such requirements may be grounds for denial of an application by the Licensing Division.
7. All annual licenses expire on December 31st. Licensees are to apply for license renewal in the month of November, or during such other times as the Licensing Division may require. Licensees must comply with the renewal procedures as set forth by the Licensing Division.

RULES REGARDING THE
ONE TIME ENTERTAINMENT APPLICATION PROCESS

An establishment not possessing an annual entertainment license issued pursuant to M.G.L. c. 140 §181 or M.G.L. c. 140 §183A, but wishing to offer entertainment as described in said statutes on a one-time, per-event basis, may make application for such to the Licensing Division.

Also, current holders of licenses issued pursuant to M.G.L. c. 140 §181 or M.G.L. c. 140 §183A wishing to expand the categories of allowed entertainment on their premises on a one-time, per event basis, may also apply to the Licensing Division for such. The procedures for such applications are as follows:

1. The applicant must complete the form “Application for a One-Time Entertainment License”, and file it with the Licensing Division no later than two weeks before the contemplated entertainment. All portions of the application must be completed, and the application must include a completed sign-off from the District Police Station.
2. The applicant must have a valid Certificate of Use and Occupancy and Certificate of Inspection from the City of Boston Inspectional services Department for the structure in which the license will be exercised, and must have a valid Fire Assembly Permit from the Boston Fire Department for the premises.
3. The Licensing Division shall grant one-time applications unless it finds that the license, taken alone or in combination with other licensed activities on the premises, would adversely affect the public health, safety, and order in that the entertainment could not be conducted in a manner so as to protect persons from disruptive conduct, criminal activity, or from health, safety, or fire hazards, prevent an unreasonable increase in noise in the area of the establishment, or cause an unreasonable increase in the level of pedestrian or vehicular traffic in the area of the premises.

4. If the Licensing Division denies the one-time application, and the application was filed in a timely manner, it will inform the applicant of the denial no later than five days before the contemplated entertainment.
5. The Licensing Division may impose conditions on one-time licenses in order to preserve and protect the public health, safety, and order as aforesaid.
6. The failure of an applicant to comply with these procedures shall be grounds for denial of a one-time application.
7. Any one-time licenses granted by the Licensing Division are valid only for the dates and times for which they had been granted, and shall expire thereafter.
8. For any changes to the one time entertainment application, applicants must notify the District Police Captain and receive approval prior to the resubmission of the application to the Licensing Division.
9. All one-time licensees must comply with The Rules and Regulations of the Mayor's Licensing Division.
10. License fees are determined by the maximum indoor capacity listed on the Certificate of Inspection. Additional fees may be incurred. Refer to the Licensing Division's Schedule of Fees for fees.
11. The Division may, in its discretion, and on a limited basis, approve requests to waive one-time license fees for special events sponsored by duly-authorized non-profit groups.
12. Applicants who wish to withdraw or cancel their submitted one time entertainment application must notify the Licensing Division prior to the event date and time. Cancellation notices made after the event date and time will be charged the entertainment license fee.

13. One time entertainment applications are processed weekly prior to the event dates and approved licenses are available on the Wednesday prior to the event at 3:00 p.m. Licenses for events occurring on Wednesday will be available the Monday before the event.
14. The licensee must present valid identification to the Licensing Division at the time of the issuance of the license, and a receipt form must be filled out in order to receive the entertainment license.
15. Applications may require additional permits (i.e. park permits, electrical permits, vaccinations, and etc.) and documents depending on the nature of the event.

REGARDING THE
ONE TIME CARNIVAL APPLICATION PROCESS

1. The applicant must complete the form "Application for a One-Time Carnival License", and file it with the Licensing Division no later than two weeks before the contemplated carnival rides or games. All portions of the application must be completed, and the application must include a completed sign-off from the District Police Station.
2. The applicant must submit a Certificate of Liability Insurance with the application.
3. For carnival games, the applicant must submit a License to Operate Amusement Devices from the State Department of Public Safety.
4. For a petting zoo or pony rides, the applicant must submit applicable vaccination certificates.
5. Please refer to the Licensing Division Schedule of Fees for the Carnival fees.

RULES REGARDING THE
ONE TIME MIXED MARTIAL ARTS APPLICATION PROCESS

Applications for mixed martial arts one-time events are to be submitted to the Licensing Division through the same manner as one-time entertainment application process.

1. The applicant must submit a Special License for a Sanctioned Event from the Special Licensing / Massachusetts State Athletic Commission (Massachusetts Department of Public Safety)
2. Please refer to the Licensing Division Schedule of Fees for the Mixed Martial Arts fees

REGULATORY STANDARDS AND PROCEDURES FOR GRANTING,
CONDITIONING, DENYING, SUSPENDING OR REVOKING ENTERTAINMENT
LICENSES

Pursuant to St. 1821 c. 110 §14; St. 1885 c. 266 §§6 and 12; St. 1908 c. 494 §1, as most recently amended by St. 1936 c. 340 St. 1908 c. 494 §3; St. 1909 c. 486 §§1 and 8; St. 1909c. 486 §5, as most recently amended by St. 1953 c. 473 §1; St. 1913 c.280; St. 1948 c. 452 §17G as appearing in St. 1951 c. 376 §1; St. 1956 c. 665 §7; M.G.L. Chapters 4, 43, 136 and 140; C.B.C. Ord. 17 §13.1-13.6, the Boston Fire Prevention Code; The Boston Zoning Code; the State Building Code; The First and Fourteenth Amendments to the Constitution of the United States; and Article 16 of the Massachusetts Declaration of Rights, as amended by Article 77 to the Constitution of the Commonwealth; the Mayor through the Director of Consumer Affairs and Licensing hereby promulgates the following:

§1. In order to deny an entertainment license application the Director must possess substantial evidence that the granting the license application at the premises specified:

- i. would lead to or cause an offense under any applicable law, code, ordinance or regulation; or
- ii. would lead to the creation of a nuisance or otherwise endanger the public health safety or order by
 - a. unreasonably increasing pedestrian or vehicular traffic in the area in which the premises is located; or
 - b. increasing the incidence of illegal or disruptive conduct in the area in which the premises is located; or
 - c. unreasonably increasing the level of noise in the area in which the premises is located.

The Director, prior to denying a license application shall ascertain that the anticipated harm is significant and that the likelihood of its occurrence is not remote.

§2. The Director may issue conditional entertainment licenses, and such conditions may relate to:

- i. compliance with applicable laws or ordinances; or
- ii. public safety, health, or order; or
- iii. steps required to be taken to guard against creation of a nuisance or to insure adequate safety and security for patrons or the affected public.

Every original entertainment license which is approved by the Director shall include a condition requiring the applicant to secure Certificates of Use and Occupancy and Inspection for the structure in which the license will be exercised, and to secure the approval of the Boston Fire Department as a

place of assembly and for the approval of decorations, seating, other furnishings and interior finishes.

The Director may impose conditions upon an existing license upon finding, after a hearing preceded by ten days' notice to the licensee, that conditions exist which would have justified imposition of the conditions upon the license when granted.

§3 Revocation and Suspension

- i. The Director may revoke or suspend a license for an exhibition, show, or amusement upon finding, after a hearing preceded by ten days' notice to the licensee, that conditions exist which would have justified denial of the original application for such license.
- ii. The Director may, after a hearing preceded by ten days' notice to the licensee, suspend or revoke a license for an exhibition, show, or amusement on a ground having to do with public morality or decency if there has been a final judicial determination that such exhibition, show, or amusement is obscene, or if there has been a final judicial determination that in the course of maintaining such exhibition show, or amusement the licensee has violated the provisions of section 29A or 29B of Chapter 272 of the Massachusetts General Laws.
- iii. The Director may, without any administrative hearing, utilize the standards established in Paragraphs (i) and (ii) above and suspend a license for an exhibition, show, or amusement for not more than three calendar days, provided that no such suspension shall be effective unless and until a judicial proceeding instituted by the Director or approves the validity of the license suspension. Such approval must take place within one working day of the day when the Director so suspends the license under this paragraph. If and when a judicial proceeding approves the license suspension, within one working day of such approval the Director shall hold a hearing

to determine whether to continue the suspension. Notice of this hearing shall be given to the licensee in writing. If the Director after such a hearing decides to continue the suspension, such suspension may be continued for a period not to exceed eleven days from the day when the Director first suspended the license pursuant to this paragraph. Suspension of the license beyond this eleven day period may only take place pursuant to Paragraphs (i) and (ii) above.

§4. Boston Police Officers are authorized as agents of the Mayor's Office of Consumer Affairs and Licensing to inspect places of public entertainment licensed or required to be licensed by said office. Such officers may report to the Director such information as may be relevant to the standards and procedures outlined in this regulation.

RULES REGARDING THE SOLICITATION PROCESS

Every charitable organization, individual, or post of an incorporated organization of the United States Veterans of War seeking to solicit contributions of money, food, clothing or other articles in the streets and any other public places in the City of Boston shall, prior to such sales, obtain a license from the Mayor and receive approval as to the times and places by the Police Commissioner.

The procedure for an application for a license to sell articles for charitable purpose and/or to solicit and receive alms (contributions) in public places is as follows:

1. The applicant must complete the form "Application for license to sell articles for charitable purpose and/or to solicit and receive alms (contributions) in public places", and file it with the Licensing Division no later than two weeks before the contemplated solicitation. All portions of the application must be completed, and the application must include a completed sign-off from the District Police Station.

2. A separate application with the District Police Captain signature will be required for each different district.
3. Along with the application, the applicant is required to file:
 - a. The most recent annual report and tax exempt certification filed at the Attorney General's Non-Profit/Public Charities Division;
 - b. The certificate of solicitation with valid dates from the Attorney General's Non-Profit/Public Charities Division;
 - c. The most recent annual financial statement of the organization;
 - d. Copies of any materials that the applicant will be distributing regarding their organization;
 - e. A copy of the actual identification that they will have on and copies of labels that will be affixed to any cans or solicitation devices. The letters on the identification badges must be at least ½ inch in height.
 - f. A list of the streets and cross streets that the applicant wishes to solicit or receive alms. Please note that applicants cannot solicit on privately owned, restricted properties, major street intersections, traffic rotaries, at traffic lights, or in street traffic.
4. The Licensing Division shall grant solicitation applications unless it finds that the license, would adversely affect the public health, safety, and order.
5. The failure of an applicant to comply with these procedures shall be grounds for denial of a solicitation application.

6. The Licensing Division may impose conditions on solicitation licenses in order to preserve and protect the public health, safety, and order as aforesaid.
7. Upon approval of the solicitation application, the applicant will receive a License with the approval of the Executive Director of the Mayor's Office of Consumer Affairs & Licensing. The applicant will then be advised to obtain the Police Commissioner's approval and signature at the Boston Police Headquarters. Upon the approval of the Police Commissioner, the applicant will then return to the Mayor's Office of Consumer Affairs & Licensing for the final approval signature by the Mayor.
8. Applicants will be required to pay the solicitation license fee after obtaining all three signatures. The fee for the license is \$10 per day.
9. Any solicitation licenses granted by the Licensing Division are valid only for the dates for which they had been granted, and shall expire thereafter.

CONCLUSION

A. SEVERABILITY

If any of the provisions of these rules and regulations or their application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions of such Rules and Regulations or the application of such other provisions, which can be given effect without the invalid provision or application thereof, and for this purpose the provisions of these rules and regulations are severable.

B. OTHER LAWS

Notwithstanding any of the foregoing Rules and Regulations, no person duly licensed by the Mayor's Licensing Division under M.G.L. Ch. 4, 43, 136 and

140, C.B.C. 426-430A;St. 1821 c. 110 s.14;1908 ch. 94 sl and 3 as amended; and any other applicable codes, regulations, ordinances and statutes shall employ, use the services of, or permit upon his licensed premises any employee, entertainer, or other person who by his or her attire or conduct violates any General Laws, Special Act or Ordinance of the City of Boston.

ORDINANCE – ACOUSTIC LIVE ENTERTAINMENT

OFFERED BY COUNCILOR MICHELLE WU



CITY OF BOSTON IN CITY COUNCIL

AN ORDINANCE REGARDING ACOUSTIC LIVE ENTERTAINMENT

- WHEREAS:* Boston is home to over 40,000 small businesses that provide 170,000 jobs, representing 44% of employment for the city's private, for-profit businesses and anchoring economic opportunity and vitality in our neighborhoods; and
- WHEREAS:* To support neighborhood retail businesses, the City of Boston introduced and implemented a 10-day Main Street District event in May 2015 called Acoustic on Main, which celebrated and promoted local small businesses and performers by eliminating the licensing and fee requirements for acoustic live entertainment performances in small businesses under certain conditions; and
- WHEREAS:* The successful Acoustic on Main pilot program was repeated in Boston Main Street Districts in August 2015 and December 2015; and
- WHEREAS:* Removing permitting and licensing barriers for neighborhood small businesses to host acoustic performances year-round can help increase foot traffic in the City's business districts and incentivize customers to "shop local"; and
- WHEREAS:* The City Council and Mayor Martin J. Walsh share a commitment to strengthening neighborhood business districts, and the Boston Acoustic Live Entertainment ordinance is the result of active collaboration with the Walsh Administration over several months; *NOW*

THEREFORE BE IT ORDERED:

City of Boston Code, Ordinance Chapter XVII is hereby amended by adding at the end thereof, the following new section and subsections.

Chapter 17, Section 19.1

- (a) Any business located in the business districts of the City of Boston may hold acoustic performances within the perimeter of their business without obtaining a live entertainment license or change of occupancy provided they are compliant with the following requirements:
- (i) The business is registered with the Office of the City Clerk and obtained a business license;

- (ii) There are no more than five (5) acoustic performers and/or musicians at a single venue at one time;
- (iii) Performances are limited to the hours of 10:00 a.m. to 10:00 p.m.;
- (iv) There is no amplification of sound except for one microphone;
- (v) No food or beverage service unless the business is a licensed food establishment or bar; and
- (vi) The business maintains handicap accessibility during performances.

Businesses offering such acoustic performances as described herein remain subject to any other existing requirements such as statutes, including the requirements of M.G.L. Chapters 138 and 140 if applicable; as well as any other ordinances, codes, rules, regulations, licenses, certificates, permits, and other applicable requirements.

(b) The Boston Police Department shall be authorized to issue violations and/or fines for any businesses found not in compliance with 17-19.1(a).

(c) This ordinance shall be effective upon passage in order to establish a Pilot Program relating to acoustic performances in businesses. The provisions of this section shall expire on December 31, 2017.

Filed On: December 7, 2016

DEC 14 2016

In City Council _____
Passed
Thomas Loney City Clerk
Approved _____ DEC 11 2016
Mayor

Offered by Councilor Michelle Wu MCCARTHY, CAMPBELL
MMO, ESSAIBI-GEORGE, FLAHERTY, LAMATTINA, O'MALLEY, PRESSLEY, ZAKIM AND BAKER

CITY OF BOSTON



IN THE YEAR TWO THOUSAND SEVENTEEN

AN ORDINANCE AMENDING THE CITY OF BOSTON CODE,
ORDINANCES, CHAPTER 17-19, REGULATING ACOUSTIC
LIVE ENTERTAINMENT

WHEREAS, On December 14, 2016, the Boston City Council approved *An Ordinance Regarding Acoustic Live Entertainment*, which established a pilot program allowing businesses to hold acoustic performances on their premises without obtaining a live entertainment licenses. Mayor Martin J. Walsh signed the ordinance into law on December 21, 2016; and,

WHEREAS, Streamlining the process allowing businesses to host acoustic performances increases foot traffic and economic activity which benefits local businesses and creates support and opportunities for local artists and musicians; and,

WHEREAS, The ordinance contains a sunset clause which provides that the pilot program expires on December 31, 2017. However, small businesses and community members have experienced continued success with acoustic live entertainment. The provisions of the ordinance should be permanent to allow neighborhoods to maintain its benefits.

NOW THEREFORE,

Be it ordained by the City Council of Boston, as follows:

Section 1.

The City of Boston Code, Ordinances, Chapter 17-19.1, is hereby amended by striking in its entirety the following subsection c: "This ordinance shall be effective upon passage in order to establish a Pilot Program relating to acoustic performances in businesses. The provisions of this section shall expire on December 31, 2017."

Section 2.

Effective Date.

The provisions of this ordinance shall be effective immediately upon passage.

Filed in Council: November 29, 2017



Boston City Council

Committee on Government Operations

Michael F. Flaherty, *Chair*

Report of Committee Chair

December 11, 2017

Dear Councilors:

Docket #1487, An Ordinance Amending City of Boston Code Chapter 17-19 Regulating Acoustic Live Entertainment, was sponsored by Councilor Michelle Wu and referred to the Committee on Government Operations on November 29, 2017. The Committee held a public hearing on Friday, December 8, 2017.

Docket #1487 will amend **City of Boston Code, Ordinances, Chapter 17-19**, which created a one year pilot program allowing businesses to hold acoustic performances without obtaining a live entertainment license or change of occupancy provided they were compliant with certain requirements, by striking subsection c, a sunset clause that provided for the program in the ordinance to expire on December 31, 2017. The rest of the ordinance remains unchanged.

Representatives from the Administration included Julie Burros, Chief of Arts and Culture and Abigail Furey, Neighborhood Business Manager for the Office of Economic Development. Administration officials offered support for **Docket #1487**, as it supports opportunities for people to engage in culture in their neighborhoods, opportunities for the music community, more space for the performing arts, and eases barriers for small businesses. Councilors and Administration officials relayed indications of support for the program from all neighborhoods, as well as requests not just for continuance but expansion. Public comment and submitted testimonies also reflected the success of and appreciation for the pilot program, as well as support for removing the sunset clause and allowing the program to continue.

Streamlining the process allowing businesses to host acoustic performances increases foot traffic and economic activity that benefits local businesses and creates support and opportunities for local artists and musicians. Small businesses and community members have experienced success during the acoustic live entertainment pilot program. Making the provisions of the ordinance permanent will allow neighborhoods to maintain these benefits.

The Chair of the Committee on Government Operations, to which the following was referred:

Docket #1487, An Ordinance Amending City of Boston Code Chapter 17-19 Regulating Acoustic Live Entertainment,

submits a report recommending that this docket ought to pass.

For the Chair:

Michael F. Flaherty, *Chair*
Committee on Government Operations

APPENDIX A: PYROTECHNIC USE IN BOSTON NIGHTCLUBS



CITY OF BOSTON
OFFICE OF THE MAYOR
THOMAS M. MENINO

EXECUTIVE ORDER

Addressing pyrotechnic use in Boston nightclubs

WHEREAS: On February 20, 2003, ninety seven people were killed and one hundred eighty six gravely injured as a result of one of the deadliest fires in United States history; and

WHEREAS: Less than one week prior, twenty one people were killed and fifty seven injured as a result of a stampede to exits in a Chicago nightclub; and

WHEREAS: The use of a pyrotechnic display during a performance was the cause of the nightclub fire in West Warwick, Rhode Island at The Station Nightclub; and

WHEREAS: Fires in nightclubs have shown to be some of the most deadly due to the combination of pyrotechnics and the large number of individuals in one space; and

WHEREAS: The National Fire Protection Association (NFPA) is conducting immediate reviews of relevant safety issues involved with the indoor use of pyrotechnics; and

WHEREAS: Section 183A of Chapter 140 of the General Laws provides for the Mayor's Office of Consumer Affairs and Licensing (MOCAL) as the

entertainment licensing authority for the approximately two hundred ten nightclubs in the City of Boston; and

WHEREAS: "Nightclub" is defined as an establishment licensed by MOCAL for the primary purpose of live entertainment and dancing; and

WHEREAS: The City of Boston has a vital interest in the health, safety, and order of its citizens and visitors in all nightclubs;

NOW THEREFORE, pursuant to the authority vested in me as chief executive officer of the City of Boston by St. 1948, c. 452, § 11, and every other power hereto enabling, I hereby order and direct that:

1. Effective immediately, the use of all pyrotechnical displays at all nightclubs in the City of Boston is prohibited. This prohibition shall be implemented by MOCAL.
2. The City of Boston Fire Department and Inspectional Services Department shall conduct systematic inspections of all nightclubs within the City of Boston, to be completed within sixty days of the date hereof.
3. Thereafter, the City of Boston Fire Department and Inspectional Services Department shall continue to conduct regular inspections at random and with or without notice. I further direct all Cabinet Officers, Department Heads and City Employees to render such aid and assistance as is required for the implementation of the foregoing.

A handwritten signature in black ink, appearing to read "Thomas M. Menino". The signature is fluid and cursive, with a large initial 'T' and 'M'.

Thomas M. Menino

Mayor of Boston

Dated: March 3, 2003

APPENDIX B: SECURITY STAFF



CITY OF BOSTON
OFFICE OF THE MAYOR
THOMAS M. MENINO

EXECUTIVE ORDER

Regarding Security Staff at Nightclubs and Bars in the City of Boston

WHEREAS: There have been recent reports of patrons of nightclubs and bars in the City of Boston being assaulted by security staff; and

WHEREAS: It has also been reported that some security staff in such premises have criminal records; and

WHEREAS: The City of Boston has a vital interest in the health, safety, and order of its citizens and visitors in all nightclubs and bars; and

WHEREAS: Section 183A of chapter 140 of the General Laws provides for the Mayor's Office of Consumer Affairs and Licensing (MOCAL) as the entertainment Licensing Authority in the City of Boston;

NOW THEREFORE, pursuant to the authority vested in me as the chief executive officer of the City of Boston by St. 1948 c. 452, § 11, and every other power hereto enabling, I hereby order and direct that, effective immediately:

1. All establishments which a). have been licensed to operate as a nightclub, meaning they are licensed for the entertainment categories of dancing combined with live entertainment such as disc jockey or instrumental vocal music; or b). are licensed for non-live entertainment beyond the hours 12:00 a.m., are required to adhere to the requirement set forth below relative to the

hiring, training, monitoring and supervision of their security staff. Security staff includes employees of licensed establishments who are primarily engaged in the monitoring of safety and order within the premises and at its door areas.

2. This order shall not apply to establishments that:
 - a. are primarily engaged in offering athletic contests, motion pictures, stage plays or;
 - b. operate beyond the hour of 12:00 a.m. but operate as restaurant, i.e. all portions of their premises are primarily engaged in the service of food to patrons.
3. Every new employee who completes an employment application for a security position with the licensee must also file an authorization form that gives the licensee the ability to conduct a background investigation. In addition licensees are required to file documentation with the Licensing Authorities, describing the methods they use to screen and conduct background checks on security employees.
4. No licensee may employ as a security employee, any person who in prior years has been convicted in a state or federal court of the crimes of armed robbery, or any, without limitation, form of assault, battery, sexual assault, criminal harassment, kidnapping, manslaughter, mayhem, murder, rape or stalking without being cleared by both the Licensing Authorities and the Boston Police Department.
5. All licensees who have security personnel and fall into the above mentioned categories must provide training for their security staff before they are allowed to interact with patrons. Licensees must provide a written document to the Licensing Authorities describing their methods for training security staff.
6. Any entertainment licensee, regardless of their entertainment category, which receives more than one violation in eighteen (18) months, where there has been a finding with proper notice and a hearing by either the Mayor's Office of Consumer Affairs and Licensing, (MOCAL) or The Licensing Board for the City of Boston, that an on duty security staff member assaulted a member of the public; will be required to complete at their own expense a 3rd party

training for this particular security employee within ninety (90) days. Such training must include certification by the licensee to both Licensing Authorities, that there was successful training of the security member involved before reinstatement to work in the licensed premise. I further direct all Cabinet Officers, Department Heads and City Employees to render such aid and assistance as is required for the implementation of the foregoing policy.

A handwritten signature in black ink, reading "Thomas M. Menino". The signature is fluid and cursive, with a large initial 'T' and 'M'.

Thomas M. Menino
Mayor of Boston
Dated: March 14, 2007

