

AMENDED RULES AND REGULATIONS - Late-Night Commercial Operations Licenses

The Director of Finance adopts these Amended Rules and Regulations pursuant to Baltimore City Code, Article 15, § 9-3 (a).

I. Background

Baltimore City Code, Article 15, Subtitle 9, requires that certain businesses in an R, O-R, B-1, or B-2 Zoning District in the city obtain a late-night commercial operations license to operate any time between the hours of midnight and 5 a.m. Hotels, motels, restaurants and taverns operating during hours authorized by their alcoholic beverage licenses, the sale of motor vehicle fuels, the provision of emergency medical or veterinary care, video lottery facilities operating during hours authorized by their State Video Lottery Operating Licenses, and drive-through food-service windows, if all their indoor sales and dining areas are closed to the public during late-night hours and no pedestrians are served at their windows during late-night hours, are excepted from the coverage of Subtitle 9. The Department of Finance is charged with issuing the licenses.

II. Definitions

A. The Director adopts and incorporates the terms as used in Baltimore City Code, Article 15, §§ 9-1 and 9-2.

B. In addition, the terms as used in these Rules and Regulations have the following definitions:

1. "Applicant" means the person or business applying to the Department of Finance for a late-night commercial operations license.
2. "Bureau" means the Bureau of Revenue Collections in the Department of Finance.
3. "Codes" means the Building, Fire, and Related Codes of Baltimore City; the Health Code of Baltimore City; and the Zoning Code of Baltimore City.
4. "Day" means calendar day.
5. "Licensee" means the holder of a late-night commercial operations license and includes a person or business applying for a renewal of such a license.
6. "Mail" means by regular, first class, United States mail. It does not mean certified or registered mail or restricted delivery.
7. "Ordinance" means Baltimore City Code, Article 15, Subtitle 9.

III. Applications

A. To apply for a late-night commercial operations license, all applicants must submit a copy of the application form attached to these Amended Rules and Regulations along with an indoor and outdoor security plan, comply with the Ordinance, and pay an annual fee of \$460 per business, subject to adjustment in accordance with the City Fee Policy. All applications must be filed with the Bureau of Revenue Collections, 200 Holliday Street, Wolman Municipal Building,

Room 3, Baltimore, Maryland 21202. Any questions should be directed to the Bureau in person, at (410) 361-9690, or at COBBusinessLicense@baltimorecity.gov.

B. Any person who owns or who is the franchisor of 2 or more businesses subject to the Ordinance may submit a joint application to license each of those businesses and may remit in one lump-sum payment the aggregate application fees owed for all the businesses.

C. On filing an application for an initial license, the applicant must obtain a sign from the Bureau and post it on the premises, such as in a window or on a door, so that it is visible to the public passing by the premises. The Bureau will add to the sign a date at least 15 days after the date that the applicant files the application. The sign must be posted for at least 15 days. Within 5 days after filing an application, the applicant also must e-mail or send by certified or registered mail notice of the application to the City Councilmember who represents the Councilmanic District in which the business is located. In addition, the Bureau will notify the Councilmember as soon as practicable after the application is filed. If the sign is not posted on the premises for at least 15 days and for at least 12 days after the Councilmember receives notice of the application, then the applicant must re-post with an appropriate date. The Bureau shall charge \$5.00 for the first sign and \$10.00 for each additional sign.

D. Within 15 days after the last day of the last 15-day period for posting the sign in paragraph Ill.C. of these Amended Rules and Regulations, the Bureau must grant or deny an application. A denial must be based solely on one or more of the following factors:

1. The applicant failed to pay the applicable license fee on or before the due date;
2. The applicant made any material false statement in any initial or renewal application;
3. The applicant failed to abate within 30 days of receipt any notice or citation for violating any provision of the Codes;
4. The applicant failed to comply with any provision of the Ordinance, these Amended Rules and Regulations, or a condition imposed under this subtitle on the license;
5. The specific days and hours proposed for late-night operations;
6. The application lacks an adequate indoor and outdoor security plan;
7. The applicant is unable or unwilling to accept reasonable conditions on the license to protect the public health, safety, or welfare; or
8. Ten or more written objections from different real property owners, commercial tenants who do not hold or have pending applications for a late-night operations license, or residents within the impact area of the business are received by the Bureau within all the posting periods.

E. If an application is denied, then within 7 days after the last day of the last posting period the Bureau must mail to the applicant notice of the denial, the reason or reasons for the denial, and notice of the right to file a written appeal within 30 days after receiving the denial to the Director of Finance for an administrative review of the application.

IV. Administrative Review

A. Within 30 days after the timely filing of an appeal, the Director of Finance must notify the applicant in writing of his or her decision to affirm the denial or to direct the Bureau to grant the license.

B. In reviewing the application, the Director must consider:

1. All letters submitted in opposition to or in support of the application;
2. Whether the applicant failed to pay the applicable license fee on or before the due date;
3. Whether the applicant made any material false statement in any initial or renewal application;
4. Whether the applicant failed to abate within 30 days of receipt any notice or citation for violating any provision of the Codes;
5. Whether the applicant failed to comply with any provision of the Ordinance, these Amended Rules and Regulations, or a condition imposed under this subtitle on the license;
6. The specific days and hours proposed for late-night operations;
7. The adequacy of the applicant's indoor and outdoor security plan, including any evaluation made by the Police Commissioner or his or her designee; and
8. The applicant's ability and willingness to accept reasonable conditions on the license to protect the public health, safety, or welfare.

V. Expiration and Renewal

A. Each license expires annually on the anniversary of its issuance and is renewable.

B. To renew a license, the licensee must apply no less than 60 days nor more than 90 days before the license expires. All licensees who want to renew must submit a copy of the renewal application form attached to these Amended Rules and Regulations, comply with the Ordinance, and pay an applicable fee. All renewal applications must be filed with the Bureau of Revenue Collections, 200 Holliday Street, Wolman Municipal Building, Room 3, Baltimore, Maryland 21202. All licensees who want to renew also must post the premises for 15 days using the same procedures as stated in paragraph III. C. of these Amended Rules and Regulations.

C. Within 7 days after the last day of the 15-day posting period after the renewal application is submitted, the Bureau must grant or deny a renewal application. A renewal application must be denied if ten or more objections from different real property owners, commercial tenants who do not hold or have pending applications for a late-night operations license, or residents within the impact area of the business are received by the Bureau within all the posting periods.

D. If an application or renewal application is denied, then the applicant or licensee may not reapply for at least 12 months from the date of the final decision of the Bureau, Director, or court.

E. If a renewal application is denied, then within 7 days after the renewal period the Bureau must mail to the applicant notice of the denial, the reason or reasons for the denial, and notice of the right to file a written appeal within 30 days after receiving the denial to the Director of Finance for an administrative review of the application.

F. The filing of an appeal to the Director does not stay the decision of the Bureau pending the Director's decision. The considerations and decisions of the Director shall be as provided in paragraph IV. B. of these Amended Rules and Regulations.

VI. Suspension, Revocation, or Fine

A. The Bureau, or on appeal the Finance Director, may deny, suspend or revoke a late-night commercial operations license or renewal of such a license for any of the following causes:

1. failing to pay the full amount of the applicable license fee on or before the due date,
2. making any material false statement in any application for a license or renewal,
3. failing to abate within 30 days of receipt any notice or citation for violating any provision of the Codes,
4. failing to comply with any provision of the Ordinance,
5. failing to comply with any provision of these Amended Rules and Regulations, or
6. failing to comply with a condition imposed under any provision of the Ordinance.

B. For any violation that is cause for suspending or revoking a license, the Bureau or, on appeal the Finance Director, may instead of or in addition to suspending or revoking the license, impose a civil fine of not more than \$500 for the first offense and not more than \$ 1,000 for any subsequent offense.

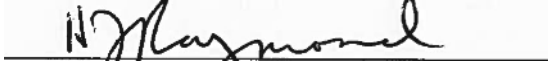
C. This paragraph only applies to an appeal of a decision to suspend or to revoke a license or to impose a fine; it does not apply to the denial of an application or a renewal of a license. Within 30 days after receiving the Bureau's decision to suspend or to revoke a license or to impose a fine, the aggrieved party may file a written appeal to the Director of Finance for administrative review. The filing of the appeal stays the decision of the Bureau pending the Director's decision. Within 30 days after the filing of the appeal, the Director must notify the applicant in writing of his or her decision to affirm, to reject, to increase, or otherwise to modify any or all of the appealed sanctions.

These Amended Rules and Regulations are effective thisday of

_____,
2015, and have been filed with the Department of Legislative Reference pursuant to § 9-3 (b) of

the Ordinance.

Issued and Approved:

A handwritten signature in black ink, appearing to read "H. J. Raymond", is written over a light gray rectangular background.

Henry J. Raymond Director of Finance

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Date