

# **Sexually Oriented Permit/Licensing Board Policies and Procedures**

## **5. Definitions.**

Distributed Promptly means the administration of the Board shall mail out the application to the necessary departments the same day it comes into the office. If the application comes into the office after 4:00PM the administration may send it out to the necessary departments the next day.

## **10. Meetings of the Board**

The Board shall meet two times per month on the second Tuesday of every month at 3:00 PM at the Howard School and fourth Tuesday of every month at 8:30 AM at the Howard School. Any changes in that schedule due to holidays will be announced to the public. If at any meeting of the Board the members vote creating a tie, the chair or acting chair at that meeting shall have the authority to break the tie.

## **20. Procedure at Board Meetings**

Meetings of the Board shall be run in accordance with Roberts Rules of Order. It shall require a quorum of the Board to take any action. If a quorum is not present and the time on a permit/license is about to expire, Rule 70 shall apply. Special meetings may be called when necessary by the chairperson or if the chairperson is unavailable the vice chairperson. A special meeting requires a quorum. Any special meeting shall be announced to the public in the most effective and practical manner available.

## **30. Action at Meetings.**

At Board meetings the Board hears the reports of the inspector and determines if the report contains sufficient evidence of a violation of Chapter 6.54 to warrant the issuance of a citation. The Board will vote on whether or not a citation shall issue and a positive vote will instruct the Board's secretary to draft a citation. The inspector will bring the citation to the chairperson of the Board for signature and then serve the business listed personally.

Citation. The citation shall list which portions of Chapter 6.54 were violated. The citation shall explain that this is not a judgment but a hearing on the charges listed. The citation will advise the licensee/permittee the location and time of the hearing, the deadline for responding in writing to the citation, and the option to have council present at the hearing.

## **40. Stay of Denials, Suspensions, Revocations**

Any determination that an application shall be denied shall not go into effect until thirty days after the final decision of the Board and when the applicant has made no appeal of that denial to any court of competent jurisdiction. Any determination that any license/permit is either suspended/revoked shall not go into effect until thirty days after the final decision of the Board and when the applicant has made no appeal of that denial to any court of competent jurisdiction.

## **50. Hearings by the Board.**

At hearings the board will hear relevant testimony as to the violations listed in the citation. The board will vote on whether or not there is sufficient evidence to sustain the citation. If the vote is affirmative the board will then consider the sanctions.

Revocation. If the sustained citation contains one of the items listed in section 6.54.140 then the Board must revoke the license/permit. The revocation must be for at least one year. In the case of 6.54.140 (8) or (9) the Board must determine if the violations are continuing or ongoing and if the violations at issue present a threat to the public health or safety. The determination of the ongoing /continuing nature of the violation(s) shall be made by a motion from a Board member followed by a second and an affirmative vote of the majority of the members of the Board present. The same procedure is followed to determine if the violations pose a threat to public health or safety. If both votes are affirmative then the license/permit must be revoked for a period of not less than one year.

Suspension. Suspensions are brought to the floor by a motion and a second and passed by an affirmative vote of the majority of the members of the Board present. No suspension shall be for less than one full twenty-four hour period for any violation. Any violation which is a first time offense, shall not be subject to a suspension unless that violation poses a threat to the health or safety of the community. For any violation which is a threat to the health and safety of the community and is also a first time offense, the suspension shall not be longer than seven (7) days. Any violation which is not a threat to the health and safety of the community shall not be subject to a suspension unless it has occurred more than three times over a period of two years.

Fines. Any first time violation that is not a threat to the health and safety of the community shall be subject to a fine of not more than \$1,000.00. Any first time violation that is a threat to the health and safety of the community may be subject to a fine of not more than \$2,000.00. Any repeat offenses that are not a threat to the health and safety of the community shall be subject to a fine of not more than \$1,000.00 for the first time and not more than \$1,500.00 the second time, not more than \$2,000.00 the third time and so on. Repeat offenses are calculated over a period of two years.

A fine and a suspension may be combined for any violation that is a threat to the public health and safety or which has occurred more than three times over a period of two years.

Repeat violations do not have to be of the same provision of Chapter 6.54. Any violation of the chapter after a previous violation of Chapter 6.54 is a repeat violation.

The written statement confirming any revocation/suspension or denial will be issued by the board within three days from the date of the hearing.

#### **60. Policy for Appeals of Criminal Convictions**

Conviction in a lower court is sufficient for denial of an application or the revocation of a license or permit.

#### **70. Delays in License or Permit Procedure**

It shall be the policy of this Board that any license or permit not acted on by the Board in the time allowed by the ordinance, due to any fault on the part of the Board or the Board's administration, shall be granted. Renewals of a license/permit granted in this manner shall be treated like all other renewals under the ordinance. This means the license may be suspended or revoked and/or a fine may be levied for violations of the ordinance.

**80. Inspections by Departments of the Metropolitan Government.**

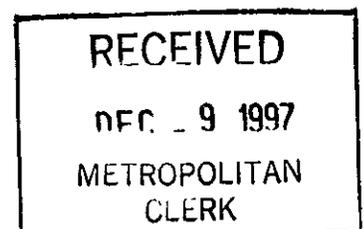
It shall be the policy of this Board that all inspections required by any department within the Metropolitan Government shall be completed and the necessary report prepared within a seven day period. Any report not turned into the Board within that seven day period must be sufficiently explained to the Board by that inspector or department. It is not a sufficient explanation on the part of the Metro department or inspector that seven days was not enough time.

**90. Guidelines for Board's Inspector**

The inspector shall make a comprehensive list of all sexually oriented businesses in the Metropolitan Area. This list shall be organized by geographical region and inspections of all sexually oriented businesses will be done in the order of this list. The inspector shall report his activities from the past two weeks to the Board at each meeting.

**100. Response of Board to Inspector Report**

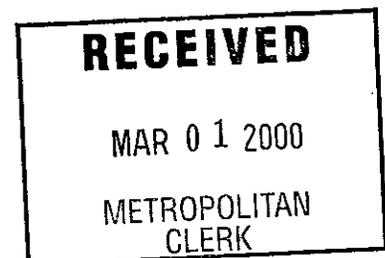
The Board will review reports made by the inspector including reports referred to other departments noting potential violation of Metropolitan Code. The Board will require citations be issued to any sexually oriented business/entertainer for violation of its license/permit.



# Sexually Oriented Permit/Licensing Board Policies and Procedures

## 1. Definitions.

A. The term "other qualified person" as found in section 6.54.070(A)(2)(b) shall mean any person employed as a police officer who is currently on active duty with the Metropolitan Nashville Police Department who is on duty at the time the fingerprints are taken.



**10. Meetings of the Board**

The Board shall meet two times per month on the second Tuesday of every month at 7:30 AM at the Howard School and fourth Tuesday of every month at 9:00 AM at the Howard School. Any changes in that schedule due to holidays will be announced to the public. Any special meeting shall be announced to the public in the most effective and practical manner available.

## **20. Procedure at Board Meetings**

Meetings of the Board shall be run in accordance with Roberts Rules of Order. It shall require a quorum of the Board to take any action. Special meetings may be called when necessary by the chairperson or if the chairperson is unavailable the vice-chairperson. A special meeting requires a quorum. The chairperson may vote in the same manner and on the same occasions as any other member.

**30. Action at Meetings.**

At Board meetings the Board hears the reports of the inspector and determines if the report contains sufficient evidence of a violation of Chapter 6.54 to warrant the issuance of a citation. The Board will vote on whether or not a citation shall issue and a positive vote will instruct the Board's secretary to draft a citation. The inspector will bring the citation to the chairperson, or if the chair is unavailable the vice chair, of the Board who shall sign the citation and the inspector shall serve the citation personally on the business listed on the citation.

Citation. The citation shall list which portions of Chapter 6.54 were violated. The citation shall explain that this is not a judgment but a hearing on the charges listed. The citation will advise the licensee/permittee the location and time of the hearing, the deadline for responding in writing to the citation, and the option to have counsel present at the hearing.

**50. Hearings by the Board.**

At hearings the board will hear relevant testimony as to the violations listed in the citation. The board will vote on whether or not there is sufficient evidence to sustain the citation. If the vote is affirmative the board will then consider the sanctions. Revocations, Suspensions and Fines shall be in accordance with section 6.54.150 of the Metropolitan Code.

The board will issue a written statement of their decision confirming any revocation/suspension/fine or denial the next business day after the hearing.

**60. Policy for Appeals of Criminal Convictions**

Conviction in any court of a crime of a sexual nature as defined in 6.54.010 is sufficient for denial of an application or the revocation of a license/permit. The fact that the judgement is being appealed shall have no effect on the disqualification of the applicant until the judgement is reversed.

## **90. Guidelines for Board's Inspector**

The inspector shall report his activities to the Board at each meeting, including, but not limited to, those activities enumerated below.

The inspector shall comply with the law.

When the inspector becomes aware of a business which is a sexually oriented business/establishment but does not have a proper use and occupancy permit (U&O), the inspector shall notify the Zoning Inspection staff who will treat this matter as part of their enforcement of the Zoning Ordinance.

When the inspector becomes aware of a business which is a sexually oriented business/establishment which has a proper U&O permit, and is able to obtain a sexually oriented business/establishment license; but the inspector finds that a particular business is operating without the required license, he/she is to inform his/her supervisor of his/her findings. If the findings indicate a violation of the licensing requirements of section 6.54 of the Metropolitan Code then the inspector will request the service of a civil warrant to General Sessions Court, Environmental docket, for operating a sexually oriented business/ establishment without a license.

The inspector shall also make inspections of licensed businesses as a result of either routine, periodic inspections of all licensed businesses or as a result of specific complaints regarding a particular business. When violations are discovered as a result of these inspections, the Board's inspector will prepare a report to the Board outlining his/her specific observations during his/her inspection. The Board will then determine the appropriate course of action. If the Board's decision is to proceed with civil penalties, the Board will fill out a civil citation and have it signed by the Chair or vice chair. This citation will be served by the inspector the next business day to the business and the agent for process listed on the application (if any).

The routine inspections will be scheduled in advance with the inspector's supervisor. Regular inspections will be performed on a quarter-year basis. These inspections shall varied in terms of day of week and time of day in order to minimize anticipation of the inspections by the subject businesses. The inspection form approved by the Board will be used for all inspections of licensed businesses.

If, at any time, while on duty the inspector observes any illegal conduct, including but not limited to violations of the public indecency act, the inspector shall report this to the police department. If, at any time, the inspector observes any violations of the Metropolitan Code, not including violations of section 6.54, the inspector shall report his/her observation in written form to the proper department.

**100. Response of Board to Board's Inspector Report**

The Board will review the inspector's reports or any other information which is reported to the Board, including any reports referred to other departments. The Board will vote on whether or not to issue citations to any sexually oriented business/entertainer for violation of its license/permit based on the reports given by the inspector.

## DIVISION OF LABOR

### **Actions of the Board**

The board hears the reports of the inspector and determines if the report contains sufficient evidence of a violation of Chapter 6.54 to warrant the issuance of a citation. The board will vote on whether or not a citation shall issue and a positive vote will instruct the board's secretary to draft a citation. The inspector will bring the citation to the chair person of the board for signature and then serve the business listed personally.

**Citation.** The citation shall list which portions of Chapter 6.54 were violated. The citation shall explain that this is not a judgment but a hearing on the charges listed. The citation will advise the licensee/permittee the location and time of the hearing, the deadline for responding in writing to the citation, and the option to have council present at the hearing.

**Hearing.** At hearings the board will hear relevant testimony as to the code violations listed in the citation. The board will vote on whether or not there is sufficient evidence to sustain the citation. If the vote is affirmative the board will then consider the sanctions - revocation, suspension or fine

### **Guidelines for Inspector From the Board**

1. The inspector shall never visit any business with the intention of harassing the licensee or permittee. Nor shall the inspector ever attempt to encourage an establishment to close by repeated harassing inspections.
2. The inspector shall attend each meeting of the board and shall report all findings to the board. At a hearing the inspector shall be sworn and give testimony to the board. Both the board and the licensee/permittee may ask questions of the inspector regarding his testimony and his inspection of the premises/entertainer at issue.
3. The inspector shall report any violations of sections of the Metropolitan Code, other than Chapter 6.54, to the appropriate department.
4. Any emergency shall be immediately reported to the police. The inspector shall also notify the board chairperson or vice chairperson as soon as practicable.
5. All violations observed by the inspector shall be compiled in a report and kept in the board's files for five years.
6. The Inspector will be well acquainted with Chapter 6.54 and answer any questions from other departments or applicants about procedures, inspections, or applications.

However, the inspector is not permitted to offer legal advice or legal interpretations regarding Chapter 6.54.

### **Administrative**

Application. The Codes administration shall keep copies of the permit/license application on file at all times and give them to anyone who requests one except the personal information of the entertainers listed by Judge Higgins (phone numbers, addresses, social security number) which shall not be produced unless by order of a court. A copy Chapter 6.54 shall be attached to every application. The applications shall be returned to Codes and that same day forwarded on to the appropriate departments. The Codes administration shall receive all inspection reports as required by Chapter 6.54 and submit the reports plus the application to the board for consideration. The Inspector shall track the time deadlines to insure that the board will convene in sufficient time to hear the applications and to insure that all inspections are completed as described in Chapter 6.54.

Phone Calls. Codes will designate a number to call if the applicant has any questions regarding the application or if any of the departments have questions about the inspection. The person answering the phone will either answer the question or refer the caller to someone who can answer the question. However, Metro employees are not permitted to offer legal advice or legal interpretations regarding Chapter 6.54.

Meetings. Codes will make public notice of all meetings of the board. Codes will create an agenda for the board regarding applications, alleged violations and issued citations. The Inspector shall mail to each board member a copy of a packet three days prior to the meeting. This packet will contain the agenda, all applications to be considered, the inspector's reports, all citations issued which are set for hearing, and any responses filed by the licensee/permittee. Codes will assign someone to attend all meetings for the purpose of keeping the minutes and handling the files. At meetings where hearings will be held on any violations Codes shall hire a court reporter to swear witnesses and record the proceedings. The copy of the record will be kept with the file of that licensee/permittee.

Public Records. Codes will keep files of all meetings, applications, licenses/permits, inspection reports and police checks. These files will be open to the public, except as described above, during regular business hours in accordance to the Public Records Act. Any person requesting copies of the records will be given copies within in one week of the request. The copies will be at a cost of .25 cents/page.

Inspector. Codes will provide some supervision to the board's inspector. Codes will assign a person to make sure that the inspector is working the correct number of hours and is conducting his inspections in accordance with the law and proper procedure.

Training. Codes will provide the board inspector with the appropriate Codes inspection training and coordinate with the other departments to provide the inspector with training from Health and Police.

## **Guidelines for Inspector**

1. The inspector shall make a comprehensive list of all SOB's in the Metropolitan Area.
2. The inspector shall never visit any business with the sole intention of harassing the licensee or permittee. Nor shall the inspector ever attempt to encourage an establishment to close by repeated harassing inspections.
2. The inspector shall attend each meeting of the board and shall report all findings to the board.
3. The inspector shall report any violations of the Metropolitan Code to the appropriate department.
4. Any emergency shall be immediately reported to the police. The inspector shall also notify the board chairperson or vice chairperson as soon as practicable.

### **2. Inspection Guidelines - Departments**

**A. Codes.** Compliance with 6.54.050(A).

#### **B. Health/Sanitation Standards or New and Existing Adult Entertainment Businesses**

1. General repair - Floors, walls, ceiling, doors, furnishing
  - (a) Public areas,
  - (b) Restrooms,
  - (c) Booths, cubicles, rooms.
2. General sanitation - Floors, walls, ceiling, doors, furnishing
  - (a) Public areas,
  - (b) Restrooms
  - (c) Booths, cubicles, rooms.
3. Solid/Liquid Waste Disposal
  - (a) Containers - clean, covered, adequate number,
  - (b) Storage area, grounds clean,
  - (c) Approved collection, storage, disposal,
  - (d) Plumbing - good repair.
4. Restrooms

- (a) Hot and cold running water,
- (b) Soap,
- (c) Individual hand towels, dryer.
- (d) Toilet tissue on holder.

5. Insects/rodents

- (a) Evidence, presence,
- (b) Harborage, attractants.

6. Bathing facilities, showers, saunas, whirlpools

- (a) Clean, sanitized,
- (b) Bathtub, whirlpools emptied after each use,
- (c) Multiple use hot tubs, Jacuzzis, whirlpools permitted.

## 1999 SCHEDULE OF ADULT ENTERTAINMENT BOARD MEETINGS

The following are scheduled meeting dates for the Adult Entertainment Board Meetings for 1999 in the Howard Office Building, 2<sup>nd</sup> Floor Codes Meeting Room.

JANUARY	12	
	26	
FEBRUARY	9	7:30am
	23	9:00am
MARCH	9	7:30am
	23	9:00am
APRIL	13	7:30am
	27	9:00am
MAY	11	7:30am
	25	9:00am
JUNE	8	7:30am
	22	9:00am
JULY	13	7:30am
	27	9:00am
AUGUST	10	7:30am
	24	9:00am
SEPTEMBER	14	7:30am
	28	9:00am
OCTOBER	12	7:30am
	26	9:00am
NOVEMBER	9	7:30am
	23	9:00am
DECEMBER	14	7:30am
	28	9:00am