

## **NOTICE OF PUBLIC HEARING**

The Board of License Commissioners for Prince George's County, Maryland in accordance with the provisions of Article 2B of the Annotated Code of Maryland will accept testimony regarding the proposed new Rule and Regulation #75:

### **R.R. NO. 75 – SPECIAL ENTERTAINMENT PERMIT**

As directed under Section 6-201 of Article 2B of the Annotated Code of Maryland, the Board of License Commissioners is authorized to issue Special Entertainment Permits to qualified businesses with Class B Licenses. The Special Entertainment Permit authorizes the holder to provide entertainment, allow patron dancing, and assess a cover charge under conditions as determined by the Board and in compliance with all County laws. The annual fee for this Special Entertainment Permit is \$1,500. The Board will hold a public hearing in conjunction with the request for the Special Entertainment Permit. Section 6-201 also provides the Board with the authority to issue an exemption to the Special Entertainment Permit that authorizes entertainment at a licensed establishment that the Board determines is in the principal business of providing family entertainment.

- A. In order to apply for the Special Entertainment Permit, the applicant shall develop a security plan to prevent the premises from causing a threat to the peace and safety of the surrounding area and provide evidence that the security plan will be implemented. The applicant may utilize sworn security personnel as part of the plan if the sworn security personnel have police powers in the jurisdiction where the premises is located.
- B. The initial request for a Special Entertainment Permit or modification to a previously issued Special Entertainment Permit shall include:
  - 1. Fully completed Special Entertainment Permit Application
  - 2. A security plan
  - 3. Evidence that the security plan has been submitted to the Prince George's County Chief of Police.
  - 4. If the establishment is located within a municipality, evidence that the security plan has been submitted to the Police Department for the municipality.
- C. Once issued, a Special Entertainment Permit shall be valid until November 30<sup>th</sup> of the following license year unless otherwise specified in the letter issuing the Special Entertainment Permit or it is suspended or revoked by action of the Board. An annual renewal of the Special Entertainment Permit shall include a Renewal Application to be filed between August 15<sup>th</sup> and September 15<sup>th</sup> to ensure that the licensee may continue to offer entertainment while the Board considers the application. Late applications may cause a suspension in entertainment between the time that the Special Entertainment Permit expires and the time the Board renders a decision on renewal. The Renewal

Application shall also include a security plan and evidence that the security plan has been submitted to the Prince George's County Chief of Police. If the establishment is located in a municipality, the Renewal Application shall also include evidence that the security plan has been submitted to the Police Department for the municipality in which the licensed establishment is located.

- D. The Board will review any comments on the security plan from the Prince George's County Chief of Police or the designee of the Chief.
  - 1. The Prince George's County Chief of Police is responsible for providing the Board with any Police Department comments on the security plan within 30 days of the Police Department's receipt of the plan from the applicant. If the Board does not receive the Police Department comments within 30 days of the date in which the applicant submitted it to the Police Department, the Board may take notice that the Police Department did not have comments on the security plan in question.
  - 2. For each security plan in which the Police Department provides comments, a representative from the Office of the Chief of Police for Prince George's County will be requested to attend the public hearing and present the Prince George's Police Department's comments and position on the security plan and answer questions the applicant or the Board has regarding the comments of the Police Department. If a Police Department representative does not attend the hearing, the Board may assign meaning to Police Department comments based on evidence presented and notice taken at the hearing.
- E. Pursuant to a public hearing, the Board will determine whether a Special Entertainment Permit will be issued for the type of entertainment described at the hearing; the days and hours the privileges of the Special Entertainment Permit can be exercised; modifications to the security plan pursuant to notice taken and evidence considered; limits and conditions regarding entertainment, dancing and cover charges. The Board is authorized to prohibit, condition, or restrict the type of entertainment provided on the licensed premises.
- F. After issuance of the Special Entertainment Permit the licensee is required to:
  - 1. Follow the security plan at all times when exercising the privileges of the Special Entertainment Permit.
  - 2. Assure that the establishment and the entertainment does not pose a threat to the peace and safety of the community.
  - 3. Between the hours of 9:00 p.m. and 2:00 a.m. the next day, prohibit individuals under 21 years of age from being on the part of the premises where the entertainment is occurring (exception: employees and immediate family members of the permit holder and circumstances described in paragraph J) when the privileges of the Special Entertainment Permit are being exercised. Individuals under 21 who are already on the part of the licensed premises where the entertainment is occurring (or will occur) should be informed prior to 9:00 p.m. (or the time that the entertainment

begins) that they have to leave that part of the licensed premises by 9:00 p.m. (or when the entertainment begins, whichever is later).

4. If an establishment with a Special Entertainment Permit has separate areas on the licensed premises where no entertainment occurs, the requirements of the Special Entertainment Permit do not apply to those areas where there is no entertainment.
- G. The Board may immediately suspend a Special Entertainment Permit if the Board determines pursuant to majority vote that the licensee failed to follow its security plan or in other ways deviated from the representations made to the Board with regard to the provision of entertainment on the licensed premises. If the Board suspends the Special Entertainment Permit, it shall hold a hearing with regard to the status of the Special Entertainment Permit within 30 days. The Board will determine at the hearing whether it shall fine the licensee, continue the suspension of the Special Entertainment Permit, revoke the Special Entertainment Permit, reinstate the Special Entertainment Permit, and/or take any other appropriate actions.
- H. Establishments that the Board determines are in the principal business of providing family entertainment may have entertainment without a Special Entertainment Permit, upon the Board's determination that the establishment should be issued an exemption. To obtain an exemption from the Board, a licensee must file an Exemption Application with the Board. If the Board denies a request for an exemption, the applicant may make a written request to the Board for reconsideration within 21 days of the Board's denial. Reconsiderations are subject to hearings and at the discretion of the Board. After the request for exemption is granted by the Board, licensees are required to file applications for annual exemption renewals between July 1<sup>st</sup> and August 1<sup>st</sup>. If a timely filed request for renewal is denied, the applicant may:
- a. File a written request for reconsideration, or
  - b. If eligible, file an application for a Special Entertainment Permit, within 21 day of the Board's denial.

Reconsiderations are subject to hearings and are at the discretion of the Board. If the request for renewal is denied upon reconsideration, the applicant, if eligible, may file an application for Special Entertainment Permit within 21 days of the Board's denial. If all filings are timely, the licensee may continue to offer entertainment throughout this process subject to any conditions or limitations imposed by the Board. Unless specified otherwise in the letter granting the exemption, the exemption shall be valid until October 31<sup>st</sup>, of the following license year unless suspended or revoked by action of the Board. The Board will consider the specific circumstances of each application for exemption and determine whether an exemption should be granted on a case-by-case basis. Some examples of establishments that the Board may determine to be exempt are:

1. Establishments that provide entertainment that is directed towards children at all times.
2. Establishments that customarily serve families during all business hours, do not have a cover charge, and provide entertainment that is clearly secondary to the dining experience.
3. Establishments that customarily provide family themed theatrical performances.
4. Establishments that are a part of a university or other academic facility.
5. Establishments that customarily host family oriented sporting events.
6. Establishments associated with the Maryland-National Capital Park and Planning Commission.

A licensee may not deviate from the entertainment, days, times, and other conditions that it describes to the Board when obtaining an exemption. A material deviation without prior Board approval constitutes grounds for the Board to immediately suspend the determination of exemption and schedule a hearing to determine whether a Special Entertainment Permit is necessary to replace the exemption.

- I. Entertainment is broadly defined and can include, but is not limited to, any type of performance provided by the licensee or the licensee's agents on the licensed premises. Some examples of entertainment are:
  1. Music played by a disc jockey, musician, or band,
  2. Choreography demonstrated by a dancer,
  3. Exotic dancing performed by a stripper,
  4. Jokes told by a comedian, and
  5. Songs performed by a vocalist or instrumentalist.

Licensees do not need a Special Entertainment Permit for activities that are not considered entertainment. The following examples would NOT usually be considered entertainment:

- i. Music played on a restaurant's sound system without the assistance of a disc jockey, and
- ii. Electronic, mechanical, or other devices (e.g. television, karaoke machine, video game, microphone, pool table, pinball machine, ping pong table, mechanical bull,

carousel, jukebox, etc.) that are provided for customer use to enhance the restaurant experience.

- J. If the establishment has a Special Entertainment Permit but is authorized by the Board to host on the licensed premises wedding or corporate receptions, reunions, anniversary celebrations, retirement or birthday parties, confirmation ceremonies, or other types of events that are family oriented and have entertainment, individuals under 21 years of age may remain on the part of the premises where the entertainment for the family oriented event is occurring between 9:00 p.m. and 2:00 a.m., pursuant to the Board's prior authorization. The licensee is responsible for notifying the Board on a monthly basis of its scheduled events. Notice should be provided at least 10 days before the event. Failure to provide adequate notice or otherwise comply with conditions imposed by the Board may result in the suspension or revocation of the special exemption for family oriented events with entertainment.
- K. The Special Entertainment Permit authorizes the holder to offer entertainment, allow patron dancing and assess a cover charge under conditions as determined by the Board and in compliance with all County laws. Licensed establishments that are not Class B may not obtain a Special Entertainment Permit. Licensed establishments that are specifically exempt by statute from having a Special Entertainment Permit are authorized to have entertainment without a Special Entertainment Permit. In addition, if entertainment is specifically provided to a licensed establishment by statute, a Special Entertainment Permit is not required for the entertainment that the statute authorizes.
- L. This rule does not prohibit entertainment between 2:00 a.m. and 3:00 a.m. for licensed establishments that qualify to be open during that time on Saturday and Sunday mornings.
- M. All licensed establishments that provide entertainment must be authorized to provide entertainment by Special Entertainment Permit, exemption to the Special Entertainment Permit, or specific provisions of the Annotated Code of Maryland. Pursuant to this rule and the processes herein, licensed establishments that do not have either a Special Entertainment Permit, an exemption to a Special Entertainment Permit, or a specific provision of the Annotated code of Maryland authorizing entertainment must stop providing entertainment as of January 1, 2012.