

# **Town of Freetown, Massachusetts**

## **Adult Entertainment Regulations**

### **Sections:**

**1.1 General Provisions**

**2.1 Findings of Fact**

**3.1 Definitions**

**4.1 License Required**

**5.1 Application**

**6.1 Cabaret License Fees**

**7.1 Standards of conduct and operation – Adult cabarets**

**8.1 License term – Assignment – Renewals**

**9.1 License suspension or revocation – Hearing**

**10.1 Liquor regulations**

**11.1 Additional enforcement**

## 1.1 General Provisions

### 1.1.1 Authority

Under the authority vested in the Board of Selectmen of the Town of Freetown by:

- A) Massachusetts General Laws including but not limited to, Chapter 140, Section 183A, Public Safety and Good Order,

the Board of Selectmen adopts these "Adult Entertainment Regulations" to provide policies, standards, and procedures for Adult Entertainment in the Town of Freetown, Massachusetts.

### 1.2.1 Purposes

These "Adult Entertainment Regulations" compile in one document, for ease of administration by the Board and understanding by applicants, the various rules, regulations, procedures, and fees regarding adult entertainment.

### 1.3.1 Objectives

The License Authority's objectives are that:

- A) All establishments within Freetown for which an Adult Entertainment License approval is sought under these Regulations shall be operated in a manner as to preserve and protect the public health, safety and order.

### 1.4.1 Evaluation Criteria

The following objectives and criteria shall be used in evaluating all license applications:

- A) Promote, preserve and protect the public health, safety and order.

### 1.5.1 Administration, Interpretation, Enforcement

#### Official Responsible

- A) The Board of Selectmen or its designee is authorized to be responsible for the interpretation, administration and enforcement of the Adult Entertainment.

### 1.6.1 Relief from Personal Liability

Insofar as the law allows, while acting for the Town of Freetown, any official designated under the provisions of paragraph 1.3.1 above, charged with the administration, interpretation or enforcement of the Adult Entertainment Regulations shall not be deemed to be personally liable in the discharge of his/her official duties.

### 1.7.1 Administrative Procedures

The Licensing Authority is authorized to formulate administrative procedures necessary to uniformly administer and enforce these Regulations.

### 1.8.1 Review Actions and Licensing Authority Meetings

#### A) Objectives:

- 1) The Licensing Authority's objectives for the effective conduct of its public meetings are to:
- 2) provide an opportunity for Licensing Authority's members and staff to review items dealing with licenses in advance of meetings;
- 3) assure applicants that items will be acted upon promptly once they are presented to the Licensing Authority's;
- 4) maintain an orderly schedule for dealing with licenses in relation to the Licensing Authority's other responsibilities;
- 5) provide opportunities and procedures for interested neighbors and Town departments, boards and committees to have an opportunity to review proposed licenses.

### 1.9.1 All Actions at Public Meetings

All reviews, decisions and other actions that the Licensing Authority makes in relation to application, as covered in these Adult Entertainment Regulations, hereinafter referred to as "license application", shall be made in a public meeting of the Licensing Authority for which public notice has been given under Chapter 39, §23, Massachusetts General Laws.

### 1.10.1 Applications Submitted Through Licensing Authority

Applications and all other requests for action on the license application shall be submitted first to the office of the Licensing Authority to be reviewed and scheduled for action at a Licensing Authority meeting. Such requests shall not be presented directly to the Licensing Authority at a meeting.

### 1.11.1 Items Placed on Licensing Authority Agenda When Ready for Action

Applications and all other requests for action on license applications shall not be placed on the agenda for a Licensing Authority meeting until they are ready for the Licensing Authority to take action. A request for action on a development activity is not considered ready for Licensing Authority action until it is complete, all necessary information has been supplied, and any form or document is ready for approval. Failure to supply all necessary information, in complete form, are grounds for the application to not be accepted for processing or for the Licensing Authority action to be delayed.

### 1.12.1 Review Prior to Licensing Authority Meeting

Prior to any action by the Licensing Authority, applications and all other requests for action on development activities shall be reviewed by the Licensing Authority staff, and, as applicable, other Town departments, boards and committees. The application and related documentation will be distributed to the Licensing Authority with the preliminary agenda so that the Licensing Authority members may review it prior to the meeting. The Licensing Authority generally will not take action on any application or other requests for action on license applications that:

- A) has not been filed with, and reviewed by, the Licensing Authority by the time the agenda is prepared, and
- B) distributed to members prior to the meeting,
- C) or respond to plans or proposals presented to it for the first time at a meeting.

#### 1.13.1 Effective Date

These Regulations shall be effective on August 7<sup>th</sup>, 2000.

#### 1.14.1 Repeal of Prior Regulations

Non-applicable

#### 1.15.1 Amendment

These Regulations may be amended from time to time by a vote of the Licensing Authority after a public hearing.

#### 1.16.1 Forms, Comments, Notes Charts Not Part of These Regulations

##### A) Forms

The Appendix contains sample forms for the administration of these Regulations. These forms are not part of the Regulations. Forms may be added or deleted and the content of the forms may be revised from time to time by administrative action of the Licensing Authority; such changes are not amendments to these Regulations and may be made without holding a public hearing.

##### B) Comments, Notes, Charts

These Regulations may contain comments, charts and other illustrations, which may be interspersed with the text of the regulations. They are intended to assist the applicant in understanding the Regulations and the Licensing Authority's policies and procedures, but are not part of these Regulations. The notes are set off in a different typeface or in a box or are labeled to show their status as comments, charts and illustrations.

#### 1.17.1 SEPARABILITY

The provisions of these Regulations are separable. If any provision of these Regulations, or in the administration thereof any decision or determination, is adjudged by a court of competent jurisdiction to be unconstitutional, invalid or void, the decision shall not affect any other provision of these Regulations or the administration thereof.

## **2.1 Findings of fact.**

Based on public testimony and other evidence and information before it, the Freetown Licensing Authority makes the following findings of fact:

- 2.1.1 The regulations and standards of conduct in this regulation are consistent with standards and regulations approved by Massachusetts's municipalities and are supported by the legislative record contained in those municipal files, the Town of

- Freetown records, and in the record of judicial review and affirmation of such regulations and standards.
- 2.2.1 The license fees required herein are reasonable fees imposed as necessary regulatory measures designed to help defray the substantial expenses incurred by the town in regulating the adult entertainment industry.
  - 2.3.1 Concern over sexually transmitted diseases is a legitimate health concern of the town which requires regulation of adult entertainment businesses in order to protect the health and well being of the public.
  - 2.4.1 Hidden ownership interests for the purposes of skimming profits and avoiding the payment of taxes have historically occurred in the adult entertainment industry in the absence of regulation. In order for the town of Freetown to effectively protect the public health, safety, morals, and general welfare of its citizenry it is important that the town be fully apprised of the actual ownership of adult entertainment establishments.
  - 2.5.1 Adult entertainment businesses continue to operate under similar regulations and standards as those set forth in this regulation, thereby demonstrating the economic viability of such operations under such regulations and standards.
  - 2.6.1 Courts have enforced more restrictive separation requirements than those contained in this regulation. Requiring a four-foot separation between adult entertainers and patrons is the minimum necessary to ensure the public's health, safety, and general welfare.

### **3.1 Definitions.**

For purposes of this regulation, certain terms and words are defined as follows:

- 3.1.1 "Adult cabaret" means any commercial premises, including any cabaret premises, to which any member of the public is invited or admitted and where an entertainer provides live adult entertainment to any member of the public.
- 3.2.1 "Adult entertainment" - refer to M.G.L c.272, §31 for definition.
- 3.3.1 "Applicant" means the individual or entity seeking a cabaret license in the town of Freetown.
- 3.4.1 "Applicant control persons" means all partners, corporate officers and directors and any other individuals in the applicant's business organization who hold a significant interest in the adult cabaret business, based on responsibility for management of the adult cabaret business.

- 3.5.1 “Cabaret” means any nightclub, bar, restaurant, tavern, saloon, room, place or space whatsoever in the town in which any music, singing, dancing, or other similar entertainment is permitted.
- 3.6.1 “Licensing Authority” means the Board of Selectmen or such town employees or agents as the Board of Selectmen shall designate to administer this regulation, or any designee thereof.
- 3.7.1 “Employee” means any and all persons, including managers, entertainers and independent contractors who work in or at or render any services directly related to the operation of any cabaret.
- 3.8.1 “Entertainer” means any person who provides adult entertainment within an adult cabaret as defined in this section, whether or not a fee is charged or accepted for entertainment.
- 3.9.1 “Liquor” means all beverages defined in Chapter 138 of the Massachusetts General Law.
- 3.10.1 “Manager” means any person who manages, directs, administers or is in charge of the affairs and/or conduct of any portion of any activity involving adult entertainment occurring at any adult cabaret, and includes assistant managers working with or under the direction of a manager to carry out such purposes.
- 3.11.1 “Member of the public” means any customer, patron, club member, or person, other than an employee as defined in this section, who is invited or admitted to a cabaret.
- 3.12.1 “Opaque” means not transparent, A dense material one cannot see through. Body paints, dyes, tattoos, dried or wet liquid latex, string, dental floss and similar substances do not constitute fully opaque coverings.
- 3.13.1 “Operator” means any person operating, conducting or maintaining an adult cabaret.
- 3.14.1 “Person” means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, government entity, or other entity or group of persons however organized.
- 3.15.1 “Receptacle” means a container that is not a human body or any part of the human body or does not imitate the human body or any part of the human body in any way.
- 3.16.1 “Sexual conduct” refer to M.G.L c.272, §31 for definition.
- 3.17.1 “Significant interest” means any partnership interest, sole ownership, ownership of stock or other equity interest equal to 20 percent of the value of the corporation, or authority to formulate corporate policy or the supervision in a managerial capacity of a manager, assistant manager or employee.

3.18.1 “Specific criminal offense” means an offense for prostitution or promotion of prostitution, sale or distribution or obscenity, sale or display of materials harmful to minors, public lewdness, indecent exposure, or transactions involving controlled substances (as that term is defined in Chapter 94C of the Massachusetts General Laws) for which:

- A) Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is later, if the conviction is of a misdemeanor offense; or
- B) Less than five years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is later, if the conviction is of a felony offense; or
- C) Less than five years have elapsed since the date of the last conviction or the date of release from confinement imposed for the last conviction, whichever is later, if the convictions are of two or more misdemeanor offenses occurring within a 24-month period.

#### **4.1 License required.**

4.1.1 It is unlawful for any person to conduct, manage or operate an adult cabaret unless such person is the holder of a valid and subsisting license from the town to do so, obtained in the manner provided in this regulation.

4.2.1 It is unlawful for any entertainer, employee or manager to knowingly work in or about, or to knowingly perform any service or entertainment directly related to the operation of an unlicensed adult cabaret.

4.3.1 It is unlawful for any entertainer to perform in an adult cabaret unless such person is the holder of a valid and subsisting license from the town to do so.

4.4.1 It is unlawful for any manager to work in an adult cabaret unless such person is the holder of a valid and subsisting license from the town to do so.

#### **5.1 Application.**

5.1.1 Adult Cabaret License.

- A) All applications for an adult cabaret license shall be submitted to the Licensing Authority in the name of the person or entity proposing to conduct an adult cabaret on the business premises and shall be signed by such person and certified as true under penalty of perjury. All applications shall be submitted on a form supplied by the town, which shall require the following information:

- 1) For the applicant and for each applicant control person, provide names, any aliases or previous names, driver's license number, if any, federal and/or state tax identification number, and business, mailing, and residential address, and business telephone number.
- 2) If a partnership, whether general or limited and if a corporation, date and place of incorporation, evidence that it is in good standing under the laws of Massachusetts, and name and address of any registered agent for service of process.
- 3) Whether the applicant or any partner, corporate officer, or director of the applicant holds any other licenses under this regulation or any license for similar adult entertainment or business, including motion picture theaters and panoramas, from the town or another town, county or state, and if so, the names and addresses of each other licensed businesses.
- 4) A summary of the business history of the applicant and applicant control persons in owning or operating the adult entertainment or other businesses, providing names, addresses and dates of operation for such businesses, and whether any business license or adult entertainment license has been revoked or suspended, and the reason therefor.
- 5) For the applicant and all applicant control persons, a description of business, occupation or employment history for the three years immediately preceding the date of the application.
- 6) Authorization for the town, its agents and employees to seek information to confirm any statements set forth in the application.
- 7) The location and doing-business-as name of the proposed adult cabaret, including a legal description of the property, street address, and telephone number, together with the name and address of each owner and lessee of the property.
- 8) Two two-inch by two-inch color photographs of the applicant and applicant control persons, taken within six months of the date of application showing only the full face.
- 9) A scale drawing or diagram showing the configuration of the premises for the proposed adult cabaret, including a statement of the total floor space occupied by the business, and marked dimensions of the interior of the premises. Performance areas, seating areas, manager's office and stations, restrooms and service areas shall be clearly marked on the drawing. An application for a license for an adult cabaret shall include building plans which demonstrate conformance state and town building codes.

- B) An application shall be deemed complete upon the applicant's provision of all information requested above, including identification of "none" where that is the correct response, and the applicant's verification that the application is complete. The Licensing Authority may request other information or clarification in addition to that provided in a complete application where necessary to determine compliance with this regulation.
- C) A nonrefundable application fee must be paid at the time of filing an application in order to defray the costs of processing the application.
- D) Each applicant shall verify, under penalty of perjury, that the information contained in the application is true.
- E) If any person or entity acquires, subsequent to the issuance of an adult cabaret license, a significant interest based on responsibility for management or operation of the licensed premises or the licensed business, notice of such acquisition shall be provided in writing to the town Licensing Authority, no later than 21 days following such acquisition. The notice required shall include the information required for the original adult cabaret license application.
- F) The adult cabaret license, if granted, shall state on its face the name of the person or persons to whom it is issued, the expiration date, the doing-business-as name and the address of the licensed adult cabaret. The permit shall be posted in a conspicuous place at or near the entrance to the adult cabaret so that it can be easily read at any time the business is open.
- G) No person granted an adult cabaret license pursuant to this regulation shall operate the adult cabaret business under a name not specified on the license, nor shall any person operate an adult cabaret under any designation or at any location not specified on the license.
- H) Upon receipt of the complete application and fee, the Licensing Authority shall provide copies to the police, planning department and building official for their investigation and review to determine compliance of the proposed adult cabaret with the laws and regulations which each department administers. Each department shall, within 21 days of the date of such application, inspect the application and premises and shall make a written report to the Licensing Authority whether such application and premises comply with the laws administered by each department. In the event the premises are not yet constructed, the departments shall base their recommendation as to premises compliance on their review of the drawings submitted in the application. An adult cabaret license approved prior to premises construction shall contain a condition that the premises may not open for business until the premises have been inspected and determined to be in substantial conformance with the drawings submitted with the application. A department shall recommend denial of a license under this subsection if it finds that the proposed adult cabaret is not in conformance with the requirement of this regulation or other

law in effect in the town. A recommendation for denial shall cite the specific reason therefor, including applicable laws.

- I) Within forty–five days following receipt of an application for a license under this regulation, the licensing authorities may (a) grant a license or (b) shall provide the opportunity for a hearing on the application by written notice to the applicant given seven days prior to the hearing date.
- J) Within thirty days following the final date of such opportunity for a hearing the licensing authorities shall (a) grant the license or, (b) deliver to the applicant a written notice denying the license and stating in writing the reasons for such denial. No application having been denied as aforesaid and no similar application thereto may be filed within one year of said denial except in the discretion of the licensing authorities.
- K) Existing Adult Cabaret Establishments. Any adult cabaret establishment in existence prior to the date of the adoption of this regulation shall be deemed to be operating under a temporary license. Within 30 days of the adoption of this regulation, any existing adult cabaret establishment desiring to continue conducting business in Freetown must complete an application as set forth in this section and pay the license application fees set forth in this regulation. Upon receipt of the completed application and fee, the Licensing Authority shall issue a temporary cabaret license and process the application as set forth in this regulation. Said temporary license will automatically expire on the thirtieth day following the filing of the complete application and fee, unless the Licensing Authority has failed to approve or deny the license application in which case the temporary license shall be valid until the Licensing Authority approves or denies the application, or until the final determination of any appeal from a denial of the application. In no event may the Licensing Authority extend the application review time for more than an additional 20 days.

#### 5.2.1 Adult Cabaret Manager and Entertainer Registration.

- A) No person shall work as a manager, assistant manager or entertainer at an adult cabaret without registering with the town. Each person registering as a manager or entertainer shall complete a registration form provided by the town containing the information identified below. A nonrefundable registration fee as established periodically by the licensing authority shall accompany the registration. A copy of the registration shall be provided to the police department for its review, investigation and recommendation. All registrations for a manager or entertainer shall be signed by the applicant and certified to be true under penalty of perjury. The manager’s or entertainer’s registration shall require the following information:
  - 1) The registrant’s name, home address, home telephone number, date and place of birth, and any stage names or nicknames used in entertaining. The registrant shall be responsible for advising the Licensing Authority in writing of any change in home address. Failure of a registrant to maintain with the Licensing

Authority the registrant's current home address shall be a waiver of notice provisions in this regulation.

- 2) The name and address of each business at which the registrant intends to work.
  - 3) Documentation that the registrant has attained the age of 21 years. Any two of the following shall be accepted as documentation of age:
    - a. A motor vehicle operator's license issued by any state bearing the registrant's photograph and date of birth;
    - b. A state-issued identification card bearing the registrant's photograph and date of birth;
    - c. An official passport issued by the United States of America;
    - d. An immigration document issued by the United States of America; or
    - e. Any other identification that the town determines to be acceptable.
  - B) A description of the applicant's principal activities or services to be rendered.
  - C) Two two-inch by two-inch color photographs of registrant, taken within six months of the date of application showing only the full face.
  - D) Authorization for the town, its agents and employees to investigate and confirm any statements set forth in the application.
- 5.3.1 Every adult entertainer shall provide his or her registration to the adult cabaret manager on duty on the premises prior to his or her performance. The manager shall retain the registration of the adult entertainers readily available for inspection by the town at any time during business hours of the adult cabaret.
- 5.4.1 The Licensing Authority may request additional information or clarification when necessary to determine compliance with this regulation.
- 5.5.1 An adult cabaret manager's or an adult entertainer's registration shall be issued by the Licensing Authority within 14 days of the date that the complete registration and fee are received unless the Licensing Authority determines that the registrant has failed to provide any information required to be supplied according to this regulation, has made any false, misleading or fraudulent statement of material fact in the registration, or has failed to meet any of the requirements for issuance of a registration under this regulation. If the Licensing Authority determines that the registrant has failed to qualify for the license applied for, the Licensing Authority shall deny the registration in writing and shall cite the specific reasons therefor, including applicable laws. If the Licensing Authority has failed to approve or deny any registration for an adult cabaret manager's license within 14 days of filing of a complete registration, the applicant may, subject to all other applicable laws, commence work as an adult cabaret manager in a duly licensed adult cabaret until notified by the Licensing Authority that the registration has been denied, but in no event may the Licensing Authority extend the registration review for more than an additional 20 days.

- 5.6.1 A registrant for a cabaret manager's or adult entertainer's registration shall be issued a temporary registration upon the Licensing Authority's receipt of a complete registration and fee. Said temporary registration will automatically expire on the fourteenth day following the filing of the complete registration and fee, unless the Licensing Authority has failed to approve or deny the registration in which case the temporary registration shall be valid until the Licensing Authority approves or denies the registration, or until the final determination of any appeal from a denial of the registration. In no event may the Licensing Authority extend the registration review time for more than an additional 20 days.

## **6.1 Cabaret License Fees.**

- 6.1.1 Any person desiring to obtain an adult cabaret license shall first pay a license fee as established periodically by the Licensing Authority.
- 6.2.1 Any person desiring to obtain an adult cabaret manager's registration shall first pay a registration fee as established periodically by the Licensing Authority.
- 6.3.1 Any person desiring to obtain an adult cabaret entertainer's registration shall first pay a registration fee as established periodically by the Licensing Authority.

## **7.1 Standards of conduct and operation – Adult cabarets.**

- 7.1.1 The following standards of conduct must be adhered to by employees of any adult cabaret while in any area in which members of the public are allowed to be present:
- A) No employee or entertainer shall show the human male or female genital (sic), pubic area or buttocks with less than a fully opaque covering; the showing of the female breast with less than a fully opaque covering of any part of the nipple; the exposure of any device, costume, or covering which gives the appearance of or simulates the genitals, pubic hair, natal cleft, perineum anal region or pubic hair region; or the exposure of any device worn as a cover over the nipples and/or areola of the female breast, which device simulates and gives the realistic appearance of nipples and/or areola at any time.
  - B) No employee or entertainer mingling with members of the public shall conduct any dance, performance or exhibition in or about the nonstage area of the adult cabaret unless that dance, performance or exhibition is performed at a distance of no less than six feet, measured torso-to-torso, from the member of the public for whom the dance, performance or exhibition is performed.
- 7.2.1 Payments – Gratuities.
- A) No payments, tip or gratuity offered to or accepted by an adult entertainer may be offered or accepted prior to any performance, dance or exhibition provided by the entertainer.

- B) No entertainer performing upon any stage area shall be permitted to accept any form of gratuity offered directly to the entertainer by any member of the public. Any gratuity offered to any entertainer performing upon any stage area must be placed into a permanently affixed, non-movable receptacle provided for receipt of gratuities by the adult cabaret or provided through a manager on duty on the premises.
- C) Any gratuity or tip offered to any adult entertainer conducting any performance, dance or exhibition in or about the nonstage area of the adult cabaret shall be placed into the hand of the adult entertainer or into a permanently affixed, non-movable receptacle provided by the adult entertainer, and not upon the person or into the clothing of the adult entertainer.
- D) Any payment, tip or gratuity not paid directly to an entertainer shall be paid by the manager to the entertainer, subject to any written agreement between the entertainer and the adult cabaret.

7.3.1 An adult cabaret shall execute and maintain a written contract with each employee who is an entertainer at the adult cabaret. The contract shall specify the terms of the employment, independent contract or other relationship between the adult cabaret and the entertainer. A copy of each written contract shall be retained on the premises of the adult cabaret and available for inspection by the town.

7.4.1 At any adult cabaret, the following are required:

- A) Admission must be restricted to persons of the age of 21 years or more. It is unlawful for any owner, operator, manager or other person in charge of an adult cabaret to knowingly permit or allow any person under 21 years of age to be in or upon such premises.
- B) Neither the performance nor any photograph, drawing, sketch or other pictorial or graphic representation thereof displaying any portion of the breasts below the top of the areola or any portion of the pubic hair, buttocks, genitals, and/or anus may be visible outside of the adult cabaret.
- C) No member of the public shall be permitted at any time to enter into any of the nonpublic portions of the adult cabaret, which shall include but are not limited to, the dressing rooms of the entertainers or other rooms provided for the benefit of employees, or the kitchen, and storage areas; except, that persons delivering goods and materials, foods and beverages, or performing maintenance or repairs to the premises or equipment on the premises may be permitted into nonpublic areas to the extent required to perform their job duties.
- D) No Alcoholic beverages shall be sold, possessed or consumed within 40 feet of the entertainment area.

7.5.1 The responsibilities of the manager of an adult cabaret shall include but are not limited to:

- A) A licensed manager shall be on duty at an adult cabaret at all times adult entertainment is being provided or members of the public are present on the premises. The name and license of the manager shall be prominently posted during business hours. The manager shall be responsible for verifying that any person who provides adult entertainment within the premises possesses a current and valid entertainer's license.
- B) The licensed manager on duty shall not be an entertainer.
- C) The manager or an assistant manager licensed under this regulation shall maintain visual observation of each member of the public at all times any entertainer is present in the public or performance areas of the adult cabaret. Where there is more than one performance area, or the performance area is of such size or configuration that one manager or assistant manager is unable to visually observe, at all times, each adult entertainer, each employee, and each member of the public, a manager or assistant manager licensed under this regulation shall be provided for each public or performance area or portion of the public or performance area visually separated from other portions of the adult cabaret.
- D) The manager shall be responsible for and shall assure that the actions of members of the public, the adult entertainers and all other employees shall comply with all requirements of this regulation.
- E) The manager shall be responsible for transfer of payments, tips and gratuities to entertainers.

7.6.1 Premises – Specifications.

- A) Performance Area. The performance area of the adult cabaret where adult entertainment, as described in this regulation is provided, shall be a stage or platform at least 18 inches in elevation above the level of the patron seating areas, and shall be separated by a distance of at least eight feet from all areas of the premises to which members of the public have access. A continuous railing at least three feet in height and located at least eight feet from all points of the performance area shall separate the performance area and the patron seating areas. The stage and the entire interior portion of cubicles, rooms or stalls wherein adult entertainment is provided must be visible from the common areas of the premises and at least one manager's station. Visibility shall not be blocked or obstructed by doors, curtains, drapes or any other obstruction whatsoever.

- B) Lighting. Sufficient lighting shall be provided and equally distributed throughout the public areas of the premises so that all objects are plainly visible at all times.
- C) Signs. A sign at least two feet by two feet, with large bold lettering letters at least one-inch high shall be conspicuously displayed in the public area(s) of the premises stating the following:

THIS ADULT CABARET IS REGULATED BY THE TOWN OF FREETOWN.  
ENTERTAINERS ARE:

NOT PERMITTED TO ENGAGE IN ANY TYPE OF SEXUAL CONDUCT.  
NOT PERMITTED TO APPEAR SEMI-NUDE OR NUDE, EXCEPT ON  
STAGE.

NOT PERMITTED TO ACCEPT TIPS OR GRATUITIES IN ADVANCE OF  
THEIR PERFORMANCE.

NOT PERMITTED TO ACCEPT TIPS DIRECTLY FROM PATRONS WHILE  
PERFORMING UPON ANY STAGE AREA.

**8.1 License term – Assignment – Renewals.**

8.1.1 There shall be no prorating of the license fees set out in this regulation, and such licenses in effect on the day the town assumes enforcement responsibility shall expire on the thirty-first day of December of each year, except in the event that the original application is made subsequent to June 30th, then one-half of the annual fee may be accepted for the remainder of said year on the expiration date set forth in the license, and if application for renewal is made, then annually on the renewal date thereafter.

8.2.1 Licenses issued under this regulation shall not be assignable.

8.3.1 Application for renewal of licenses issued hereunder shall be made to the Licensing Authority no later than 30 days prior to the expiration of adult cabaret licenses, and no later than 14 days prior to the expiration of adult cabaret manager and entertainer licenses. The renewal license shall be issued in the same manner and on payment of the same fees as for an original application under this regulation. There shall be assessed and collected by the Licensing Authority, an additional charge, computed as a percentage of the license fee, on applications not made on or before said date, as follows:

Days Past Due/Percent of License Fee

7 – 30/ 25%

31 – 60/50%

61 and over75%

8.4.1 The Licensing Authority shall renew a license upon application unless the Licensing Authority is aware of facts that would disqualify the applicant from being issued the

license for which he or she seeks renewal; and further provided, that the application complies with all provisions of this regulation as now enacted or as the same may hereafter be amended.

## **9.1 License suspension or revocation – Hearing.**

9.1.1 Licensing Authority's Action. The Licensing Authority may, upon the recommendation of the chief of police or designee and as provided in this section, deny, suspend or revoke any license issued under the provisions of this regulation at any time where the same was procured by fraud or false representation of fact; or for the violation of, or failure to comply with, the provisions of this regulation or any other similar local or state law by the licensee or by any of his servants, agents or employees when the licensee knew or should have known of the violations committed by his servants, agents or employees; or for the conviction of the licensee of any crime or offense involving prostitution, promoting prostitution, or transactions involving controlled substances (as that term is defined in Chapter 94C of the Massachusetts General Laws) committed on the premises, or the conviction of any of his servants, agents or employees of any crime or offense involving prostitution, promoting prostitution, or transactions involving controlled substances (as that term is defined in Chapter 94C of the Massachusetts General Laws) committed on the premises in which a cabaret is conducted when the licensee knew or should have known of the violations committed by servants, agents or employees of the licensee.

### 9.2.1 Revocation – Suspension.

- A) A license procured by fraud or misrepresentation shall be revoked.
- B) Where other violations of this regulation or other applicable ordinances, statutes or regulations are found, the license shall be suspended for a period of 30 days upon the first such violation, 90 days upon the second violation within a subsequent 24-month period, and revoked for third and subsequent violations within a subsequent 24-month period, not including periods of suspension.

9.3.1 Notice. The Licensing Authority shall provide at least 10 days' prior written notice to the licensee at the licensee's last known address as shown in the Licensing Authority's file. The notice of suspension shall state the reasons for the proposed suspension or revocation and that such suspension or revocation shall become effective within 30 days of the date of notice unless the licensee files an appeal in accordance with the provisions this regulation. If the Licensing Authority elects to provide notice by mail, service of the notice shall be deemed complete upon the third day following the day upon which the notice of suspension or revocation is placed in the mail postage prepaid, unless the third day falls on a Saturday, Sunday or legal holiday, in which event service shall be deemed complete on the first day other than a Saturday, Sunday or legal holiday, following the third day.

9.4.1 Appeal. The licensee may appeal the action of the Licensing Authority by filing a notice of appeal with the Licensing Authority within 10 days of notice of suspension.

The filing of the appeal shall stay the action of the Licensing Authority, pending the decision of the Licensing Authority or town examiner.

9.5.1 Hearing – Appeal. The town council or town examiner shall conduct a hearing and render its decision as provided in this regulation. Any person aggrieved by the decision of the town council shall have the right to appeal the decision, within 10 days of the date of the decision, to superior court by writ of certiorari, prohibition or mandamus as provided in this regulation

9.6.1 Imminent Threat. Where the Freetown Licensing Authority, building official or fire marshal or their designees or the Freetown Health Department find that any condition exists upon the premises of a cabaret or adult cabaret which constitutes a threat of immediate serious injury or damage to persons or property, said official may immediately suspend any license issued under this regulation pending a hearing in accordance with this regulation. The official shall issue notice setting forth the basis for the action and the facts that constitute a threat of immediate serious injury or damage to persons or property, and informing the licensee of the right to appeal the suspension to the Licensing Authority or town examiner under the same appeal provisions set forth in this regulation; provided, however, that a suspension based on threat of immediate serious injury or damage shall not be stayed during the pendency of the appeal.

## **10.1 Liquor regulations.**

10.1.1 Any license issued pursuant to this regulation shall be subject to any rules or regulations of the Massachusetts State Alcohol Beverage Commission relating to the sale of intoxicating liquor. In the event of a conflict between the provisions of this regulation and the applicable rules and regulations of the Massachusetts State Alcohol Beverage Commission, the rules and regulations of the Massachusetts State Alcohol Beverage Commission shall control.

## **11.1 Additional Enforcement.**

The remedies found in this regulation are not exclusive, and, the town may seek any other legal or equitable relief, including but not limited to enjoining any acts or practices which constitute or will constitute a violation of any business license ordinance or other regulations herein adopted.

If any portion of this regulation, or its application to any person or circumstances, is held invalid, the validity of the regulation as a whole, or any other portion thereof, and its application to other persons or circumstances, shall not be affected.