

**SEXUALLY ORIENTED BUSINESS
ADULT CABARET PERFORMER
BROCHURE**

This brochure summarizes and explains the rules that govern the conduct of an adult cabaret performer within the City of Phoenix and is being provided to you as a courtesy of the City Clerk Department. The information provided in this brochure is based primarily on Article XII of Chapter 10 of the Phoenix City Code (otherwise known as the Sexually Oriented Business (“SOB”) Ordinance). A copy of this ordinance is made available to all adult cabaret performers upon application and should be consulted for further information. While every effort has been made to make this brochure as complete and accurate as possible, it is not the law. Therefore, should any discrepancies exist between this brochure and the SOB Ordinance itself, the language of the ordinance will control.

LICENSE APPLICATION, ISSUANCE AND ADMINISTRATION

What is an *adult cabaret performer*? An *adult cabaret performer* (“ACP”) is generally someone who provides live entertainment to patrons in an *adult cabaret*. However, a performer who performs only upon a stage upon which no patrons are present and who does not make physical contact with any patrons while on that stage is not included in the definition. Phoenix City Code (P.C.C.) § 10-131(3).

What is an *adult cabaret*? An *adult cabaret* is a business located within the City of Phoenix that regularly offers adult entertainment, typically fully-nude entertainment to patrons. P.C.C. § 10-131(2).

Is a license required in order for an individual to provide live, adult entertainment in a licensed adult cabaret? Yes, if the performer is considered an *adult cabaret performer*. This license takes the form of an identification (ID) card that is issued by the City Clerk to all qualifying persons upon application. P.C.C. § 10-134.02(A).

Where do I go to apply for this ID card (license)? The ID cards are issued by the License Services Section of the City Clerk Department of the City of Phoenix. This office is located on the 1st Floor of City Hall, 200 W. Washington Street, Phoenix, Arizona 85003.

When is that office open to the public? Monday through Friday, 8:00 a.m. to 5:00 p.m., excluding City holidays.

What do I need to bring to the City Clerk office? You must bring written proof of age in the form of a current driver’s license with photograph, or other current picture identification document issued by a governmental agency? P.C.C. § 10-134.02. You do not need to bring any photographs and no fingerprints are required.

Are temporary or out-of-state driver licenses/IDs acceptable for proof of age? Temporary driver licenses/IDs are not accepted. Driver licenses and identification cards issued by another state must meet other legal requirements as required by P.C.C. § 6-17.01. If you plan on using a driver license or ID from another state, please contact License Services to ensure it will be accepted.

How long is the application process? If your identification documents are in order, the entire application process can normally be completed within one-half hour. However, customer volume can vary in License Services depending upon the hour of the day, the day of the week, and the time of the year. If you arrive after 4:30 p.m., it is quite possible that insufficient time will be available in order to issue the card that same day.

Is there a limit on the amount of time that the City has to process an application? Yes. While the City makes every effort to process all applications as quickly as possible, the Code allows the City up to four business hours to make a decision on the application. P.C.C. § 10-134.02(D). For example, if an applicant submits an application at 4:45 p.m. on a Friday afternoon, the City would have until 11:45 a.m. of the following Monday to process the application, assuming that Monday was a City working day.

What are the requirements for issuance of the card? There are five requirements for issuance of the card: (1) the applicant has reached 18 years of age, (2) the applicant has completed the application form and sat for one photograph, (3) the applicant has paid the fee of \$24.00, (4) the applicant has not been convicted of prostitution

within the previous five years, and (5) the applicant has not had an ACP or erotic entertainer license revoked within the previous year or five years, depending on the violation. P.C.C. § 10-134.02(E) and (F).

What information is required on the application? The following information is required on the application: (1) full true name, (2) all other names under which a previous card has been issued, (3) an address (which may be a post office box) at which you may be reached by mail, (4) a telephone number at which you may be reached, (5) your stage name(s), (6) your height, weight and color of hair and eyes, (7) your date of birth and written proof of age, (8) a statement regarding past prostitution convictions, if any, and (9) your signature. P.C.C. § 10-134.02(B).

Can I obtain an ID card if I have been convicted in another state or city within the previous five (5) years?

No. P.C.C. § 10-134.02.

What is the penalty for providing false information on that application? The provision of false or misleading information is punishable as a class one misdemeanor and your license may be revoked. P.C.C. §§ 10-134.02(L) and 10-145(B).

When does the card expire? The ID card is valid from the date and time of issuance until midnight of the previous day one year later. For example, if an ID card is issued on October 31, 2010, the ID card will expire on October 30, 2011. P.C.C. § 10-134.02(C).

Can I obtain a duplicate card? Yes. The cost of each additional ID card is \$10.00. P.C.C. § 10-134.02(O).

Am I required to notify the City when I change my stage name? Yes. Prior to using a new stage name, you must report that name to the City Clerk. P.C.C. § 10-134.02(J).

Am I required to update any other information on my application? Yes. If your name, mailing address, or telephone number should change, you are required to notify the City Clerk of that change within ten (10) calendar days of the change. P.C.C. § 10-134.02(J).

How can I update the City Clerk's records when I make changes to my information? You must provide the City Clerk, License Services Section with a written statement containing your real name, a description of the changes you want made to your account, your signature and the date. You may hand deliver this statement to the License Services Section (200 West Washington Street, 1st Floor, Phoenix, AZ 85003-1611) or you may fax it to 602-495-0783. If you choose to mail this information to the City Clerk, the changes will not be made to your account until the City Clerk receives the letter.

Is my application confidential? Yes. P.C.C. § 10-134.02(K).

Will I be notified if someone attempts to force the disclosure of my personal information through judicial process? Yes, unless the request is for all ACP files. For this reason, among others, it is important that you update your personal information as required by the City Code.

What is the penalty for failing to update my personal information as required? This conduct is punishable as a civil violation with a fine from \$250.00 to \$2,500.00, or as a class one misdemeanor. P.C.C. § 10-145(A), (C) and (D).

What appeal rights do I have if my application is denied? If your application is denied, you will receive a Notice of Denial together with a statement of the reason or reasons why your application was denied. You will then have ten (10) calendar days after service of the Notice upon you to file a Request for Hearing to the Notice of Denial with the City Clerk stating the reasons why you believe the application should not have been denied. Within ten (10) days after the City has received your Request for Hearing, the City will either issue the ID card or schedule a hearing before the License Appeal Board. P.C.C. § 10-134.02(G).

What is the License Appeal Board? The License Appeal Board is a seven-member citizen board designed to hear licensing cases. P.C.C. § 19-12.

May I hire an attorney to represent me at this hearing? Yes. While you are not required to hire an attorney, this is a legal proceeding and a qualified attorney may help to ensure that your rights are protected.

If the License Appeal Board sustains the City's denial, can I challenge that decision? Yes. Once the decision to deny your application becomes final, you may file a lawsuit in the Superior Court seeking review of the City's decision to deny the application. P.C.C. § 10-134.02(H).

Is there a time limit on the Court's decision? The City has no direct control over the time period that the Superior Court requires to reach a decision. However, if the Court has not ruled on a direct challenge to the denial within sixty (60) days after the applicant has served a copy of the complaint on the City, a provisional ID card will be issued. P.C.C. § 10-134.02(H).

May I work with a provisional ID card if I am less than 18 years of age? No. P.C.C. § 10-133(A)(5).

Is there a separate information update requirement for holders of provisional ID cards? Yes. A person to whom a provisional ID card has been issued must notify the City Clerk within one City working day of employment or termination at an adult cabaret or topless bar. P.C.C. § 10-134.02(Q).

May I work in a topless bar with an ACP ID card? Yes, if you are at least 19 years of age. P.C.C. § 6-16(B)(2).

What are the circumstances under which my card can be revoked? Your card may be revoked under the following circumstances: (1) you provided false or misleading information on the application for the card, (2) you used a fraudulent identification document to establish your identity, (3) you failed to update the application information as required, (4) you have been found responsible, in either a civil or a criminal case, for a violation of the ACP conduct rules or the erotic entertainer conduct rules on three or more separate days within a three year period, (5) you have been convicted of prostitution within the previous five years, (6) you lost an appeal of the denial of an application for an ID card, or (7) you failed to pay the application fee. P.C.C. § 10-134.02(L).

What are my appeal rights if my ID card is revoked? Within ten (10) calendar days after receiving a written Notice of Intent to Revoke from the City Clerk, you may file a Request for Hearing including a statement as to the reasons why you believe your license should not be revoked. Within ten (10) days after the City has received your Request for Hearing, the City will either withdraw the Notice of Intent to Revoke or schedule a hearing before the License Appeal Board. P.C.C. § 10-134.02(M).

May a business require me to leave my ID card at the business location? There is no law that prevents a business from requiring its entertainers to leave their ID cards at the business premises. Whether this is acceptable to you or not is an issue to be resolved between you and the business. In any event, you must have your ID card with you on the business premises of any adult cabaret at which you are performing. P.C.C. § 10-133(B). In a necessary case, you always have the option of obtaining a duplicate card. P.C.C. § 10-134.02(O).

Am I required to wear the ID card while I am performing? No. It is only required to be available to you on the business premises where you are then performing. P.C.C. § 10-133(B).

What is the penalty for not having my ID card available to me at the business where I am performing? This conduct is punishable as a civil violation with a fine between \$250.00 and \$2,500.00, although the fine may be reduced to no less than \$50.00 if the performer had a valid ID card at the time of the violation. P.C.C. § 10-145(D). This conduct is also punishable as a class one misdemeanor. P.C.C. § 10-145(A), (C) and (D).

What is the penalty for performing without an ID card issued to me in my name? This conduct is punishable as a civil violation with a fine between \$250.00 and \$2,500.00. P.C.C. § 10-145(D). This conduct is also punishable as a class one misdemeanor. P.C.C. §§ 10-133(B) and 10-145.

Am I required to produce my ID card for inspection if requested by law enforcement? Yes. P.C.C. § 10-134.02(A).

What is the penalty for failing to produce my ID card as requested? This conduct is punishable as a civil violation with a fine between \$250.00 and \$2,500.00, although the fine may be reduced to no less than \$50.00 if the performer had a valid ID card at the time of the violation. P.C.C. § 10-145(D). This conduct is also punishable as a class one misdemeanor. P.C.C. § 10-145(A), (C) and (D).

If I have been successfully prosecuted for working without an ID card, am I prohibited from applying for an ID card? No. P.C.C. § 10-134.02(F).

How do I cancel my license? You may cancel your license at any time by completing the form prescribed by the City Clerk. P.C.C. § 10-134.02(P).

PERFORMANCE AREAS

Where may I perform in an adult cabaret? No employee may perform in any location of the business other than on a stage or in the *general patron area*. P.C.C. § 10-148(A)(14).

What is the *general patron area*? The *general patron area* is that portion of the business premises, excluding lobbies and restrooms, that is available to any member of the general public lawfully on the premises. P.C.C. § 10-131(17).

What is the definition of a *stage*? A *stage* is that portion of the business that has been designated as a stage by the business on its floor plan or the portion of the business that is principally used for employees to perform without the presence of patrons. In either case, all stairs and ramps leading to the stage are included in the definition. P.C.C. § 10-131(39).

CONDUCT, MONITORING AND PENALTIES

Is there any clothing requirement for an *adult cabaret performer*? No.

May a performer, while performing, make *physical contact* with the breasts of any female patron? No. P.C.C. § 10-148(A)(1).

How is the term "*physical contact*" defined? For all purposes of the conduct rules, physical contact includes direct or indirect physical contact that occurs between two individuals, including contact that occurs through clothing or by means of any object. P.C.C. § 10-131(32).

May a performer make physical contact with the anus or genitals of any other person? No. P.C.C. § 10-148(A)(1).

May a female performer, while performing, bring her breasts into physical contact with any patron? No. P.C.C. § 10-148(A)(3).

May a female performer bring her breasts into physical contact with the hand, head or face of any patron? No. P.C.C. § 10-148(A)(4).

May a performer bring his or her anus or genitals into physical contact with any patron or any other person? No. P.C.C. § 10-148(A)(5).

May a performer knowingly permit a patron to make physical contact with the breasts of any female employee while that employee is performing? No. P.C.C. § 10-148(A)(6).

May a performer knowingly permit a patron to make physical contact with the anus or genitals of any employee? No. P.C.C. § 10-148(A)(7).

May a performer engage in an act of sexual intercourse, oral sexual contact, or sexual contact, including masturbation, while in a performance area? No. P.C.C. § 10-148(A)(8).

May a performer ask or direct a patron to touch his or her own anus or genitals, touch the breasts of any female person, touch the anus or genitals of any other person, or to expose his or her anus or genitals to that performer or any other person? No. P.C.C. § 10-148(A)(9).

May a performer knowingly permit a patron to place money on the performer, or in or on the costume of a performer? No. P.C.C. § 10-148(A)(10).

May a performer accept a hand-to-hand tip from a patron? Yes, and incidental hand-to-hand contact occurring during the act of tipping is permissible. P.C.C. § 10-148(A)(10).

What is the penalty for violating the conduct rules of City Code Section 10-148(A)(1) through (A)(10)? There are three possible penalties resulting from these violations: (1) a civil violation punishable by a fine between \$250.00 and \$2,500.00 (P.C.C. § 10-145(D)), (2) a class one misdemeanor (P.C.C. § 10-145(A)), and (3) a revocation of the ID card after three proven violations within a three year period (P.C.C. § 10-134.02(L)(3)).

Is a patron permitted on a stage? Yes, with the permission of the business, although no more than one patron is permitted on a stage at any one time. Also, all stages on the same story of the building are considered to be one stage for purposes of this rule. P.C.C. § 10-148(A)(15).

Is a manager in a manager's station required to observe all performances by direct line of sight at all times? Yes. P.C.C. § 10-148(A)(16).

Is a manager in a manager's station required to observe the entire body of all patrons who are in physical contact with a performer, regardless of whether a performance is occurring? Yes. P.C.C. § 10-148(A)(18).

Is a patron permitted in a manager's station? No. P.C.C. § 10-148(A)(20).

May a performer knowingly move to a position with the intention of preventing manager monitoring? No. P.C.C. § 10-148(A)(21).

May a performer also act as a manager? No. P.C.C. § 10-148(A)(24).

Is a performer required to be trained by a manager? Yes. P.C.C. § 10-148(A)(25).

What does that training consist of? The performer is to be told where he or she can perform, to be given a copy of the City's SOB Ordinance, to be given a copy of the City Code as it relates to prostitution, and a copy of state law as it relates to prostitution. P.C.C. § 10-148(A)(25).

Is a performer required to sign a statement prior to performing? Yes. P.C.C. § 10-148(A)(26).

What is the purpose of this statement? This statement acts as a form of receipt, ensuring that you have been notified as to the proper content of the required training.

Is an adult cabaret required to report to the City Clerk the true name, stage name and license number of all performers? Yes. P.C.C. § 10-148(C).

Is an adult cabaret required to provide an updated list of performers to the City Clerk on November 1 of each year? Yes. P.C.C. § 10-148(A)(D).

Is a performer also required to follow all state laws applicable to adult performances? Yes.

CIVIL CITATIONS

What is a civil citation? A civil citation is an allegation that you have committed a violation of the City Code that carries a civil penalty.

How is the civil citation served? The civil citation is normally served on you personally.

In which court is the civil violation charge filed? The charge will be filed in Municipal Court on behalf of the State of Arizona.

Where is the Municipal Court located? 300 W. Washington Street, Phoenix, Arizona.

Who represents the State of Arizona? The State will be represented by an attorney in the City's Law Department, located at 200 W. Washington Street, Suite 1300, Phoenix, AZ 85003.

If I receive a civil citation, am I able to speak to this attorney if I have any questions? Yes, unless you have hired an attorney to represent you in connection with the civil citation, in which case you may wish to have your attorney contact the State's attorney. If you have not hired an attorney to represent you, you may contact this attorney directly.

How do I contact this attorney? You should call the City Attorney's Office at 602-262-6761, and ask to speak with the attorney assigned to the regulation of adult businesses. The attorney to whom you will be transferred will be able to explain the citation to you and to provide you with your options to resolve the case.

ADDITIONAL INFORMATION AND COMPLAINTS

How do I obtain additional information or have other questions answered? You should call City Clerk License Services at 602-262-4638.

Who do I contact to report violations of the law? You should contact the City of Phoenix Police Department Vice Enforcement Unit at 602-426-1231. Your complaint may be anonymous but you are encouraged to provide as much detail as possible in order to aid in the investigation of your complaint.

**Provided as a Service of the
City of Phoenix
City Clerk Department
License Services Section**

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