

**RULES AND REGULATIONS FOR PADLOCK HEARINGS  
PURSUANT TO BALTIMORE CITY CODE, ART. 19, §§ 43-1 - 43-12**

**I. PURPOSE**

- A. Subtitle 43 of the Baltimore City Code authorizes Baltimore's Police Commissioner to order the closing (i.e. "Padlock") of a premises to the extent necessary to abate a public nuisance.
- B. A Premises may be subject to a Padlock Order if the Commissioner determines that a public nuisance, as defined in Art. 19, § 43-1 (l), exists.

**II. DEFINITIONS**

- A. *Commissioner* – The Baltimore Police Commissioner or his designee.
- B. *Padlock Hearing* – A hearing conducted pursuant to Art. 43, § 43-4 and these Rules and Regulations.
- C. *Padlock Order* – An order issued by the Commissioner pursuant to Art. 43, § 43-6.
- D. *Premises* – Any part of land, building, or structure that is the subject of a possible Padlock Order.
- D. *Respondent(s)* - Any person(s) who is entitled to notice pursuant to these regulations and chooses to exercise their right to be heard shall be known as the "Respondent (s)."

**III. NOTICE**

- A. *In general* - Before issuing a Padlock Order, the Commissioner shall give notice and an opportunity for a hearing to the owner and any operator of the premises and to any commercial tenant of the premises.
- B. *Contents of notice.* The notice shall state the:
  - 1. Date, place, and time of the hearing;
  - 2. Violation dates and a description of the nuisance activity;
  - 3. Right of the persons receiving the notice to be heard and to be represented at the hearing;
  - 4. Commissioner's authority to issue a Padlock Order; and

5. Possible consequences of failure to appear, including the possible issuance of a default order directing the premises to be closed.

C. *Service and posting of notice.*

1. The notice shall be given by personal service or by certified or registered mail to the owner, operator, and commercial tenant, as their names and addresses:
  - (a) are recorded in the Land Records of Baltimore City;
  - (b) appear in the registration statement made under City Code Art. 13, Subtitle 4 (“Registration of Residential Properties”); or
  - (c) are otherwise known or readily ascertainable.
2. In addition, the notice shall be posted on the premises.

**IV. THE PADLOCK HEARING**

A. *General Provision* - The Padlock Hearing shall be presided over by the Commissioner and he has the power to deliberate and make a determination as to whether the Premises should be subjected to a Padlock Closing or Discontinuance Order and issue such Order.

B. *Authority of the Commissioner* - The Commissioner shall:

1. Conduct a fair and impartial hearing;
2. Maintain order over the proceedings;
3. Take all necessary action to avoid any delay in the proceedings;
4. To regulate the course of the hearings and the conduct of all parties, their witnesses and counsel; and
5. Make the final decision in the matter and, if appropriate, issue the Padlock Order

C. *Conduct of the Hearing*

1. Respondents may appear and be heard in person and may present, under oath or affirmation, evidence relevant and material to the matter under consideration.
2. Respondent(s) may be represented by an attorney who is a member in good standing of the Bar of the State of Maryland.

3. A record of all proceedings shall be made by either stenographic transcription or electronic recording device. Transcripts of the proceedings may be ordered and paid for by the party requesting the transcription.
  4. The Commissioner designates the Baltimore City State's Attorney's Office to present the Padlock cases.
- D. *Presentation of Evidence and Argument* - All parties shall have the right to call witnesses, to conduct direct and cross-examination, to present relevant evidence and to make objections, motions and argument.
- E. *Burden of Proof and Order of Proof*
1. The standard for proving that a Premises is a "public nuisance" shall be by preponderance of the evidence.
  2. The order of proof shall be as follows:
    - (a) Testimony and presentation of evidence that the Premises is a public nuisance by the Assistant State's Attorney;
    - (b) Cross-examination of the witnesses, by the Respondent or Respondent's counsel, at the conclusion of each direct examination by the Assistant State's Attorney.
    - (c) Respondent(s) or Respondent's counsel may make a motion that the Padlock Hearing should be dismissed because the State's Attorney's Office has failed to demonstrate that the Premises is a public nuisance as defined by Art. 13, Subtitle 43. This Motion shall be ruled upon by the Commissioner;
    - (d) Testimony by the Respondent(s) and/or their witnesses in mitigation and/or in explanation;
    - (e) Cross-examination of the Respondent and Respondent's witnesses, by the Assistant State's attorney, at the conclusion of each direct examination by the Respondent or Respondent's counsel.
  3. The Commissioner may in his discretion order a change in the order of proof.
  4. The Commissioner may refuse to allow or curtail the introduction of any evidence that is found to be irrelevant, cumulative, unduly prejudicial or outside the scope of the Padlock Hearing.
  5. Parties to the Padlock Hearing may by agreement stipulate to any facts involved in the proceedings provided that each stipulation is duly noted for the record.
  6. Oral argument may only be made before the Commissioner and it may be

curtailed or limited at the Commissioner's discretion.

**F. *Postponements, Adjournments and Motions***

1. A request for a postponement of a Padlock Hearing must be received ten (10) business days prior to the hearing. The request shall be sent to the Baltimore Police Department, Office of Legal Affairs, c/o 242 W.29<sup>th</sup> Street, Baltimore, MD 21211 and the Baltimore City State's Attorney's Office, Property Based Crime Solutions Program, 417 E. Fayette Street, Room 202, Baltimore, Md 21202.
2. The postponement request shall state the reason(s) for the postponement request and shall be signed by the party requesting the postponement. The postponement request shall be granted or denied after review by the Commissioner.
3. Only one request for postponement will be considered by the Commissioner unless the Respondent can demonstrate extraordinary circumstances for the request as determined by the Commissioner.
4. Once a Padlock Hearing has commenced, no application for adjournment shall be granted except for good cause shown.

**V. DETERMINATION**

**A. *Written Finding and Padlock Order.***

1. The Commissioner shall issue a written finding within seven (7) business days after the hearing or as soon practicable thereafter.
2. The written finding shall contain a brief summary of the facts, the decision as to whether or not the Premises shall be subject to a Padlock Order, and a copy of the Padlock Order.
3. The written finding along with the Padlock Order shall be given to the Respondent and in the manner set forth above in III.C.1.
4. The Padlock Order shall go into effect on the date determined by the Commissioner and set forth in the Padlock Order.
5. The Padlock Order shall outline the penalties as set forth in Art. 19, § 43-12.

**B. *Consent Agreements.***

1. Respondent(s) and the Baltimore City State's Attorney may enter into a consent agreement without a Padlock Hearing if the parties can agree on the terms to abate the nuisance.
2. The consent agreement shall be in writing, shall contain a clear statement of the Respondents' responsibilities and duties to abate the nuisance, and shall set forth timelines for fulfilling these responsibilities and duties.

**VI. VACATING A PADLOCK ORDER**

- A. The Commissioner may modify or rescind the provisions of a Padlock Order to close all or a portion of a Premises, if the Respondent submits to the Commissioner a written request for modification or rescission with attached documents or other evidence that the Respondent wishes the Commissioner to consider in ruling on the request.
- B. Respondent shall send a copy of the request to Baltimore City State's Attorney's Office, Property Based Crime Solutions Program, 417 E. Fayette Street, Room 202, Baltimore, MD 21202.
- C. If, in the Commissioner's sole discretion, he decides to consider Respondent's request, a hearing shall be held on the request. The hearing shall be held in accordance with the procedures outlined above.
- D. The Commissioner may grant the request if the Commissioner determines that the nuisance has been abated.