

CITY OF BALTIMORE
ORDINANCE _____
Council Bill 09-0387

Introduced by: Councilmember Spector, President Rawlings Blake, Councilmembers Holton,
Henry, Curran, Middleton, Kraft, Conaway, Welch, Clarke, Reisinger, Cole, Young

Introduced and read first time: August 10, 2009

Assigned to: Land Use and Transportation Committee

Committee Report: Favorable with amendments

Council action: Adopted

Read second time: October 19, 2009

AN ORDINANCE CONCERNING

Zoning – Conditional Uses – Suspension, Revocation, etc.

FOR the purpose of authorizing the ~~nonrenewal~~, modification, suspension, or revocation of a conditional use for failure to comply with a condition, restriction, or limitation imposed on that use; providing for the automatic lapse of a conditional use that has been discontinued for a certain continuous period; ~~authorizing the grant of a conditional use subject to a time limit and periodic renewal~~; and generally relating to the imposition and enforcement of conditions, restrictions, and limitations on conditional uses.

BY repealing and reordaining, with amendment

Article - Zoning

Section(s) 2-105(b) and 14-103

Baltimore City Revised Code

(Edition 2000)

BY adding

Article - Zoning

Section(s) 14-104

Baltimore City Revised Code

(Edition 2000)

BY adding

Article - Zoning

Section(s) 14-501 to 14-505, to be under the new subtitle,

“Subtitle 5. Suspension, Revocation, etc.”

Baltimore City Revised Code

(Edition 2000)

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the
Laws of Baltimore City read as follows:

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from existing law by amendment.

Council Bill 09-0387

Baltimore City Revised Code

Article – Zoning

Title 2. Administration; Authorizations

Subtitle 1. General Administration

§ 2-105. Duties.

(b) Specific duties.

In addition to and in furtherance of that responsibility, the Zoning Administrator has the duty to:

(1) issue zoning authorizations, use permits, and transfer certificates;

(2) initiate inspections of structures and uses of land to determine compliance with this article and, where there are violations, initiate action to secure compliance;

(3) maintain permanent records of this article and of all actions taken under it, including:

(i) all maps adopted under this article;

(ii) all amendments to this article and to the maps adopted under it;

(iii) the rules of practice and procedure of the Board;

(iv) applications for and issuances of zoning authorizations, use permits, and transfer certificates;

(v) applications for and approvals of conditional uses and variances; and

(vi) appeals taken under this article;

(4) record district amendments and planned unit developments on the zoning maps;

(5) maintain all records from the administration of the zoning law since its enactment by Ordinance 31-1247;

(6) provide and maintain a public information service on matters arising out of this article;

(7) receive, file, and forward to the Board applications for conditional uses, variances, appeals, and other matters on which the Board is required to act;

(8) maintain copies of the Board's determinations on conditional uses, variances, appeals, and other matters on which the Board is required to act;

Council Bill 09-0387

1 (9) determine use, lot, and bulk regulations in specific instances, as authorized by this
2 article;

3 (10) issue permits for additional industrial uses in an M-2 District;

4 (11) INSPECT PREMISES THAT HAVE BEEN GRANTED A CONDITIONAL USE TO
5 DETERMINE COMPLIANCE WITH THE CONDITIONS, RESTRICTIONS, OR LIMITATIONS
6 IMPOSED ON THE CONDITIONAL USE AND, IF A VIOLATION IS DETERMINED TO HAVE
7 OCCURRED, TO TAKE ACTION AS PROVIDED IN TITLE 14, SUBTITLE 5, OF THIS
8 ARTICLE;

9 (12) [(11)] from time to time, initiate a study of this article and report his or her
10 recommendations to the City Council, the Board, the Commissioner of Housing
11 and Community Development, and the Planning Commission;

12 (13) [(12)] periodically provide for publication of this article; and

13 (14) [(13)] perform all other duties imposed on the Zoning Administrator by this
14 article.

15 **Title 14. Conditional Uses**

16 ***Subtitle 1. Overview; General Requirements***

17 **§ 14-103. Imposition of conditions.**

18 (a) [*When authorized*] *IN GENERAL.*

19 (1) Before the Board or City Council, as the case may be, approves any conditional use,
20 it may impose on the establishment, location, construction, maintenance, and
21 operation of the conditional use any conditions, restrictions, or limitations that the
22 Board or City Council considers necessary or desirable to:

23 (i) [(1)] reduce or minimize any effect of the use on other properties in the
24 neighborhood;

25 (ii) [(2)] secure compliance with the standards and requirements of this title; and

26 (iii) [(3)] better carry out the intent and purposes of this article.

27 [(b) *When required.*]

28 (2) The Board must impose these conditions, restrictions, and limitations whenever it
29 approves a conditional use relating to automotive repair or recycling collection
30 stations.

31 (B) [(c)] *Guarantees—GENERAL.*

32 (1) [The] WHEN APPROVING A CONDITIONAL USE, THE Board or City Council, as the case
33 may be, may require whatever evidence and guarantees it considers necessary to

Council Bill 09-0387

1 assure that the conditions, restrictions, and limitations imposed BY THE BOARD OR
2 CITY COUNCIL, AS THE CASE MAY BE, will be met and complied with.

3 ~~(C) GUARANTEES PERIODIC RENEWAL.~~

4 ~~(1) THE BOARD OR CITY COUNCIL, AS THE CASE MAY BE, MAY PLACE A TIME LIMIT ON A~~
5 ~~CONDITIONAL USE OR MAY REQUIRE RENEWAL OF THE USE AFTER A CERTAIN TIME~~
6 ~~PERIOD AS A CONDITION OF APPROVAL.~~

7 ~~(2) AN APPLICATION FOR RENEWAL OF THE CONDITIONAL USE MUST BE FIRST SUBMITTED~~
8 ~~TO THE BOARD FOR ITS DETERMINATION OF WHETHER THE APPLICANT HAS COMPLIED~~
9 ~~WITH THE CONDITIONS, RESTRICTIONS, AND LIMITATIONS IMPOSED FOR THE PRIOR~~
10 ~~TERM.~~

11 ~~(3) IF THE BOARD FINDS THAT THE APPLICANT HAS BEEN IN SUBSTANTIAL OR REPEATED~~
12 ~~VIOLATION OF A CONDITION, RESTRICTION, OR LIMITATIONS, IT MUST DENY THE~~
13 ~~APPLICATION FOR RENEWAL.~~

14 (C) ~~(d)~~ *Record of conditions.*

15 (1) All conditions, restrictions, or limitations imposed by the Board must be set forth in
16 the Board’s written decision approving the conditional use.

17 (2) All conditions, restrictions, or limitations imposed by the City Council must be set
18 forth in the ordinance approving the conditional use.

19 (D) ~~(e)~~ *Compliance required.*

20 Failure to comply with any condition, restriction, or limitation imposed BY THE BOARD
21 OR CITY COUNCIL, AS THE CASE MAY BE, under this [section] TITLE:

22 (1) constitutes a violation of this article; AND

23 (2) IN ADDITION TO ANY OTHER CIVIL OR CRIMINAL REMEDY OR ENFORCEMENT
24 PROCEDURE, IS GROUNDS FOR ~~MODIFICATION~~, SUSPENSION, OR REVOCATION OF
25 THE CONDITIONAL USE, AS PROVIDED IN SUBTITLE 5 {“SUSPENSIONS,
26 REVOCATIONS, ETC.”} OF THIS TITLE.

27 **§ 14-104. FAILURE TO EXERCISE; ABANDONMENT.**

28 (A) *LAPSE ON FAILURE TO EXERCISE.*

29 UNLESS EXTENDED UNDER § 2-604 {“EXTENSIONS BY BOARD”} OF THIS ARTICLE , IF A
30 CONDITIONAL USE APPROVAL IS NOT EXERCISED WITHIN THE TIME SPECIFIED IN § 2-602
31 {“EXERCISE WITHIN 12 MONTHS REQUIRED”} OF THIS ARTICLE, THE APPROVAL
32 AUTOMATICALLY LAPSES AND IS VOID.

Council Bill 09-0387

1 (B) *LAPSE ON ABANDONMENT.*

2 IF ANY CONDITIONAL USE IS DISCONTINUED FOR A CONTINUOUS PERIOD OF AT LEAST 2
3 YEARS, THE CONDITIONAL USE APPROVAL AUTOMATICALLY LAPSES AND IS VOID. A NEW
4 APPLICATION AND AUTHORIZATION IS REQUIRED BEFORE THE USE MAY BE RE-
5 ESTABLISHED.

6 ***SUBTITLE 5. SUSPENSION, REVOCATION, ETC.***

7 **§ 14-501. SCOPE OF SUBTITLE.**

8 THIS SUBTITLE APPLIES TO ALL CONDITIONAL USES APPROVED UNDER THIS TITLE, WHETHER
9 BY THE BOARD OR BY ORDINANCE.

10 **§ 14-502. NOTICE OF PROPOSED ACTION ~~ATTEMPTED RESOLUTION.~~**

11 (A) *IN GENERAL.*

12 (1) WHENEVER THE ZONING ADMINISTRATOR ~~LEARNS OF~~ DETERMINES THAT A
13 VIOLATION OF A CONDITION, RESTRICTION, OR LIMITATION IMPOSED BY THE BOARD
14 OR CITY COUNCIL, AS THE CASE MAY BE, UNDER THIS TITLE HAS OCCURRED AND DOES
15 NOT RESOLVE IT INFORMALLY AND PROMPTLY, THE ADMINISTRATOR MUST ~~ATTEMPT~~
16 TO RESOLVE IT INFORMALLY AND PROMPTLY.

17 **~~§ 14-503. NOTICE OF PROPOSED REVOCATION.~~**

18 (A) *ISSUANCE.*

19 ~~IF THE ZONING ADMINISTRATOR IS UNABLE TO RESOLVE THE VIOLATION, THE ZONING~~
20 ~~ADMINISTRATOR MUST ISSUE A NOTICE OF PROPOSED SUSPENSION OR REVOCATION TO:~~

21 (i) ~~(1)~~ THE OWNERS OF RECORD OF THE PROPERTY, AS SHOWN ON THE TAX RECORDS
22 OF BALTIMORE CITY; ~~AND~~

23 (ii) ~~(2)~~ THE PERSONS TO WHOM THE CONDITIONAL USE APPROVAL WAS GRANTED; OR
24 THE CURRENT OPERATOR;

25 (iii) THE OWNERS OF RECORD OF THE PROPERTIES IMMEDIATELY ADJACENT TO THE
26 PROPERTY; AND

27 (iv) THE COMMUNITY, NEIGHBORHOOD, OR IMPROVEMENT ASSOCIATION LISTED WITH
28 THE DEPARTMENT OF PLANNING FOR THE AREA IN WHICH THE PROPERTY LIES.

29 (2) A COPY OF THE NOTICE MUST BE PROVIDED TO THE DEPARTMENT OF PLANNING.

30 (B) *CONTENTS OF NOTICE.*

31 THE NOTICE MUST:

32 (1) SPECIFY THE NATURE OF THE VIOLATION; AND

Council Bill 09-0387

1 (2) WARN THE RECIPIENT THAT, UNLESS THE VIOLATION IS CORRECTED WITHIN 30
2 DAYS, OR SUCH OTHER TIME AS IS SPECIFIED IN THE NOTICE, THE MATTER WILL BE
3 REFERRED TO THE BOARD FOR SUSPENSION OR REVOCATION OF THE CONDITIONAL
4 USE.

5 (C) *HOW SERVED.*

6 ALL NOTICES MUST BE SERVED BY 1 OF THE FOLLOWING METHODS:

7 (1) FIRST CLASS MAIL; ~~OR~~

8 (2) PERSONAL SERVICE BY AN AUTHORIZED REPRESENTATIVE OF THE CITY, WHICH
9 SERVICE MUST BE CERTIFIED ON THE RECORDS OF THE ZONING ADMINISTRATOR;
10 OR

11 (3) IF SERVICE BY EITHER OF THOSE METHODS FAILS, BY POSTING OF THE PROPERTY.

12 **§ 14-503. {OMITTED}**

13 **§ 14-504. REFERRAL TO BOARD.**

14 (A) *ADMINISTRATOR MAY REQUEST HEARING.*

15 IF THE VIOLATION IS NOT CORRECTED WITHIN THE TIME SPECIFIED, THE ZONING
16 ADMINISTRATOR ~~MAY~~ MUST FORWARD THE RECORD OF THIS MATTER TO THE BOARD AND
17 REQUEST THE BOARD TO SCHEDULE A ~~REVOCATION~~ HEARING.

18 (B) *SCHEDULING.*

19 ON RECEIPT OF THE REQUEST, THE BOARD MUST PROMPTLY SET THE MATTER IN FOR A
20 HEARING, TO BE HELD AS SOON AS PRACTICABLE.

21 **§ 14-505. DECISION.**

22 (A) *IN GENERAL.*

23 IF, AFTER NOTICE TO THE PARTIES AND AN OPPORTUNITY TO BE HEARD, THE BOARD FINDS
24 THAT A CONDITION, RESTRICTION, OR LIMITATION IMPOSED BY THE BOARD OR CITY
25 COUNCIL, AS THE CASE MAY BE, UNDER THIS TITLE HAS BEEN VIOLATED, THE BOARD ~~MAY~~
26 MUST TAKE ANY 1 OR COMBINATION OF THE FOLLOWING ACTIONS:

27 (1) REVOKE THE CONDITIONAL USE;

28 (2) SUSPEND THE CONDITIONAL USE ~~PENDING~~ SUBJECT TO COMPLETION OF CORRECTIVE
29 ACTION OR OTHER CONDITION SET BY THE BOARD; AND

30 (3) AFFIRM THE CONDITIONAL USE, SUBJECT TO A SCHEDULE FOR CORRECTIVE ACTION,
31 WITH PROVISION FOR AUTOMATIC TERMINATION IF THE SCHEDULE IS NOT MET AS
32 DETERMINED BY THE BOARD;

Council Bill 09-0387

1 ~~(4) MODIFY, ADD TO, DELETE, OR OTHERWISE AMEND ANY OF THE CONDITIONS,~~
2 ~~RESTRICTIONS, OR LIMITATIONS ORIGINALLY IMPOSED ON THE CONDITIONAL USE; AND~~
3 ~~(5) MAKE ANY OTHER ORDER, REQUIREMENT, DECISION, OR DETERMINATION AS OUGHT TO~~
4 ~~BE MADE.~~

5 **(B) RECORD.**

6 THE BOARD'S FINDINGS MUST BE SPECIFICALLY DOCUMENTED IN THE RECORD.

7 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance
8 are not law and may not be considered to have been enacted as a part of this or any prior
9 Ordinance.

10 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 30th day
11 after the date it is enacted.

Certified as duly passed this _____ day of _____, 20__

President, Baltimore City Council

Certified as duly delivered to Her Honor, the Mayor,
this _____ day of _____, 20__

Chief Clerk

Approved this _____ day of _____, 20__

Mayor, Baltimore City